

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Civil R.A No.S- 108 of 2016

Date of hearing	Order with signature of Judge.
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Hearing of Case

- 1.For hearing of Main Case
- 2.For hearing of CMA 820/2016

04-10-2021

Mr. Soomar Das R.Parmani Advocate for Applicants.

None present on behalf of the Respondents. Last order reflects that Respondents had taken away brief as per statement of their Counsel; but neither a new Counsel has been engaged; nor anybody has turned. In the circumstances, since Respondents are aware of these proceedings, matter cannot be left pending to repeat notices upon the Respondents.

2. I have heard Counsel for the Applicants and perused the record. It appears that the appeal filed by the Applicants was dismissed through impugned judgment dated 08.09.2016 by the Additional District Judge, Ubauro, on the ground that same was time barred; however, on perusal of the record, it appears that Appellate Judge has been perhaps swayed by the arguments of Respondents' Counsel that the Appeal is time barred; whereas, Court has not by itself carried out any exercise to see whether the said contention was correct or not. As per record, judgment was announced by the trial Court on 10.04.2013; application for certified copy was made on

13.04.2013, whereas, cost was estimated on the same date and copy was also delivered on the very day to the Applicants. The Appeal was admittedly filed on 09.05.2013. Counting even from 10.4.2013, the period of limitation of 30 days as provided under Article 152 of the Limitation Act, was to expire on 10.5.2013; therefore, the Appeal filed on 9.5.2013 could not be termed as time barred. In that case any discussion on the issue that the Applicant applied for certified copy after 3 days on 13.4.2013 is not relevant and is immaterial, as even otherwise the Appeal was within time as it was preferred on 29th day.

3. In view of such position, this Court is of the view that the Appellate Court has seriously erred in law by dismissing the Appeal as being time barred, which apparently was not the case, therefore, impugned judgment of the Appellate Court dated 08.09.2016 passed in Civil No.48 of 2013 stands set-aside and the matter is remanded to the Appellate Court to decide the same on merits in accordance with law, preferably within 90-days from today.

4. This Civil Revision Application stands allowed in the above terms.

JUDGE

Ahmad