

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Muhammad Junaid Ghaffar, J.
Agha Faisal, J.

CP D 1357 of 2022 : Altaf Hussain Khuhro & Others vs.
Federation of Pakistan & Others

For the Petitioner/s : Mr. Mushtaque Hussain Qazi, Advocate

Date/s of hearing : 14.02.2023

Date of announcement : 14.02.2023

ORDER

Agha Faisal, J. This petition was determined vide a detailed judgment dated 23.11.2022. The petitioner engaged the services of a new legal counsel and preferred CMA 3198 of 2023, on 30.01.2023, seeking review of the Judgment rendered herein. On 02.02.2023, this matter was listed for orders and the petitioner new counsel was directed to satisfy the Court as to how the application was within time.

2. Petitioner's learned counsel initially sought to contend that the judgment, sought to be reviewed, had been rendered in the *appellate* jurisdiction of this Court, hence, had titled the application under consideration accordingly. Subsequently, his case, at manifest variance to his earlier plea, was that since the judgment had been rendered under the *Constitutional* jurisdiction, therefore, no limitation in respect of filing any review was applicable. It was vehemently contended that the Code of Civil Procedure 1908 had no nexus with writ jurisdiction, hence, nothing therefrom could be applicable herein.

3. The attempt of the counsel to consider the determination of a *Constitutional petition* by this Court as exercise of appellate jurisdiction may only be termed as innocent of the law, at best. The misconceived attempt to label the proceedings as appellate appears to have been intended to defeat the prescription of Article 162 of the Limitation Act, which provides for the time limit within which a review is to be filed in respect of an order delivered by the Court in its *original* jurisdiction. The concept of original jurisdiction is with reference to the first forum available for entertaining of a matter / petition and passing of an order per Article 199 of the Constitution. The reference to original jurisdiction, in Article 162 of the First Schedule to the Limitation Act

1908, is mutually exclusive to the appellate or revisional jurisdiction of the Court.

4. Section 114 read with Order XLVII of the CPC provides for the remedy of review and Article 162 of the Limitation Act 1908 requires that a review application to be filed within 20 days from the date of the order; admittedly, the present application is beyond the pale of the said timeframe. It barely merits reiteration that the provisions of the CPC have consistently been held to be applicable to proceedings under this Court's Constitutional jurisdiction¹. It is also considered opportune to denote the review application, *prima facie* time barred, was not accompanied by any application / attempt seeking to condone the delay, hence, none was considered.

5. In view hereof, we find this review application to be hopelessly time barred, hence, the same was dismissed, along with listed application, *in limine* with costs vide our short order announced in Court at the conclusion of the hearing today. These are the reasons for our short order.

JUDGE

JUDGE

¹ 2019 SCMR 417; 2013 SCMR 464.