

IN THE HIGH COURT OF SINDH AT HYDERABAD

RA 308 of 2023 : Mst. Kharun Nisa Vs. Faizanul Hassan
RA 309 of 2023 : Najmul Hassan Vs. Faizanul Hassan
RA 310 of 2023 : Hassaan Vs. Faizanul Hassan
For the applicants : Mr. Hafiz Muhammad Ansari, Advocate.
Date/s of hearing : 18.12.2023.
Date of announcement : 18.12.2023.

ORDER

Agha Faisal, J. These revision applications assail a common order, dated 29.07.2021 rendered in Succession Application 329 of 2021 by the learned Vth Additional District Judge Hyderabad; contents whereof are reproduced below:

“The present succession application is filed to obtain succession certificate in respect of amount left by deceased Babu Abid Hussain in Meezan Bank Limited Unit No.7 Latifabad Branch Hyderabad in Account No.160203360000011.

Authorized officer of Meezan Bank Limited Unit No.7 Latifabad Branch Hyderabad submitted report with statement showing that no a balance amount is lying in the account of deceased, therefore, no succession certificate can be issued. Thus, the succession application merits no consideration and the same is dismissed”.

Notwithstanding the fact, no actionable grievance, arising from the impugned order, could be demonstrated before the Court, it is observed that while the impugned order is dated 29.07.2021 and the present revision applications have been presented on 19.10.2023; more than two years late. Learned counsel submits that respective applications have been preferred under section 5 of the Limitation Act 1908 and the sole ground invoked is that the *applicants had been continuously approaching the bank*. It is articulated that since valuable rights are involved this Court ought not to non-suit the applicants on the mere technicality of limitation.

Heard and perused. The delay in preferring the revisions is admitted and a bald statement that the applicants were *“continuously approaching the bank”* could not be sustained as a justification for each day of delay.

In so far as the second ground is concerned, it is the considered opinion of the Court that the prescriptions of limitation are not mere technicalities and disregard thereof would render entire law of limitation otiose¹. The Superior Courts have consistently maintained that it is incumbent upon the Courts to first determine whether the proceedings filed there before were within time and the Courts are mandated to conduct such an exercise regardless of whether or not an objection has been taken in such regard². The Superior Courts have held that proceedings barred by even a day could be dismissed³; once time begins

¹ *Mehmood Khan Mahar vs. Qamar Hussain Puri & Others* reported as 2019 MLD 249.

² *Awan Apparels (Private) Limited & Others vs. United Bank Limited & Others* reported as 2004 CLD 732.

³ 2001 PLC 272; 2001 PLC 143; 2001 PLC 156; 2020 PLC 82.

to run, it runs continuously⁴; a bar of limitation creates vested rights in favour of the other party⁵; if a matter was time barred then it is to be dismissed without touching upon merits⁶; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance⁷. It has been maintained by the honorable Supreme Court⁸ that each day of delay had to be explained in an application seeking condoning of delay and that in the absence of such an explanation the said application was liable to be dismissed. It is pertinent to observe that the preponderant bar of limitation could not be dispelled by the appellants' counsel.

In the present case, the delay has not been adequately explained or justified, hence, no case for is made out to condone the delay, therefore, the respective applications seeking for the delay to be condoned are hereby dismissed. As a consequence the present revisions are found to be time barred, therefore, dismissed *in limine* along with listed applications. The office is instructed to place a copy hereof in connected revisions.

Judge

⁴ *Shafaatullah Qureshi vs. Pakistan* reported as PLD 2001 SC 142; *Khizar Hayat vs. Pakistan Railways* reported as 1993 PLC 106.

⁵ *Dr. Anwar Ali Sahito vs. Pakistan* reported as 2002 PLC CS 526; *DPO vs. Punjab Labour Tribunal* reported as NLR 1987 Labour 212.

⁶ *Muhammad Tufail Danish vs. Deputy Director FIA* reported as 1991 SCMR 1841; *Mirza Muhammad Saeed vs. Shahabudin* reported as PLD 1983 SC 385; *Ch Muhammad Sharif vs. Muhammad Ali Khan* reported as 1975 SCMR 259.

⁷ *WAPDA vs. Aurangzeb* reported as 1988 SCMR 1354.

⁸ *Lt. Col. Nasir Malik vs. ADJ Lahore & Others* reported as 2016 SCMR 1821; *Qamar Jahan vs. United Liner Agencies* reported as 2004 PLC 155.