

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

R.A.No.S— 171 of 2012

| DATE | ORDER WITH SIGNATURE OF JUDGE |
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1. for order on office objection
2. for order on CMA 988/2012 (Limitation)
3. for hearing of main case.

21.12.2023.

Mr. Muhammad Hashim Laghari, Advocate for applicant

Briefly stated; the judgment impugned herein is dated 28.08.2009 rendered in Civil Appeal No.331 of 2002 by the Vth Additional District Judge Hyderabad. The present revision was preferred on 15.06.2012.

This revision is *admittedly* time barred, hence, CMA 988 of 2012 has been preferred seeking for the said delay to be condoned. This application as well as the revision has been pending since 2012 without any progress and even today learned counsel expresses his inability to proceed with the matter.

In order to evaluate the question of limitation, the supporting affidavit has been considered and it appears that the grounds pleaded are that the mother of applicant was ill and further that it would highly unjust to sacrifice the demand of justice at the altar of a technicality.

The delay in preferring the revision is admitted and a bald unsubstantiated statement regarding illness of a family member could not be sustained as cogent 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 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

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.

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.

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 applicant's 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 application seeking for the delay to be condoned is hereby dismissed. As a consequence the present revision is found to be time barred, therefore, dismissed.

Judge

A.Rasheed/stenographer