ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Revision Application No.362 of 2023

Date	Order with signature of Judge(s)

Disposed of matter

1. For orders on CMA No.5/2024.
2. For hearing of CMA No.6/2024.

01.04.2024

Mr. Qadir Bux Lashari, advocate for the applicant.

1. Exemption granted subject to all just exceptions.

2. This Revision Application was dismissed vide order dated 12.12.2023 in the following terms:

> "1. Urgency granted.
>
> 2to6. This is a prima facie time barred revision application; as the impugned judgment is dated 17.02.2023 and the present proceedings were preferred on 04.12.2023.
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> M.A. 3468 of 2023 has been filed under Section 5 of the Limitation Act, 1908 and the two grounds invoked are that the applicant's counsel did not inform the applicant of the impugned judgment in time and that since substantial rights are involved, the applicant may not be non-suited on the mere technicality of limitation.
>
> Heard and perused. The delay in preferring the revision is admitted and the communication impasse with a counsel could not be sustained as a justification for the delay. The counsel was queried as to whether the applicant initiated any proceedings against the earlier counsel for alleged misfeasance and the response was provided in the negative. Respectfully, this Court finds itself unable to sustain the first ground to justify the delay.
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> 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 otiose[1]. 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 regard[2]. The Superior Courts have held that proceedings barred by even a day could be dismissed[3]; once time begins to run, it runs continuously[4]; a bar of limitation creates vested rights in favour of the other party[5]; if a matter was time barred then it is to be dismissed without touching upon merits[6]; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of

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[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*.

hardship, injustice or ignorance[7]. It has been maintained by the honorable Supreme Court[8] 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 appellant.

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, M.A. 3468 of 2023 is hereby dismissed. As a consequence the present revision is found to be time barred, therefore, dismissed *in limine* along with listed applications."

Present application seeks a review of the said order, however, the only justification proffered is medical exigency and that the matter ought to have been determined on merit and not otherwise. *Prima facie* learned counsel seeks to re-agitate the grounds already considered prior to rendering of the order impugned.

The jurisdiction of this Court in review proceedings is limited to the ambit of Section 114 read with Order 47 CPC. The entire thrust of the arguments advanced by the counsel was directed towards merits of an already dismissed case and there was absolutely no effort to identify any mistake or error apparent on the face of the record or any other sufficient reason justifying a review of the Order.

This Court has duly appraised the contents of the present application and the arguments advanced by the counsel and is of the considered opinion that no grounds for review have been made out. The applicant has not demonstrated the discovery of any new and important matter which could not have been addressed earlier; has failed to identify any mistake apparent on the face of record; and finally no reason has been advanced to justify the review of the Order. It is thus the considered view of this Court that this application is devoid of merit, hence, the same is hereby dismissed *in limine*.

Judge

Khuhro/PA

[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*.