

**Order Sheet**  
**IN THE HIGH COURT OF SINDH, KARACHI**

C.P. No. D-1459 of 2024

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*Date*

*Order with signature of Judge*

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**PRESENT**

Mr. Justice Arshad Hussain Khan  
Justice Ms. Sana Akram Minhas

**Direction**

For Orders as to Maintainability of  
CMA No.15979/2024 [Review App.]

**7-11-2024**

Mr. Muhammad Akram Shah, Advocate for Petitioner (along with  
Petitioner, who is present in person)  
Mr. Ahmed Ali Hussain, Advocate for Respondents No.2 & 3  
Mr. Shariq A. Razzaq, Advocate for Respondent No.5

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**ARSHAD HUSSAIN KHAN, J:** Through the listed application (being CMA No.15979/2024) under Section 114 of the Code of Civil Procedure, 1908, the Petitioner seeks review of the order dated 01.07.2024, whereby the Petition was withdrawn by the Petitioner's previous Counsel in presence of the Petitioner.

The newly engaged learned Counsel for the Petitioner while referring to the listed application, asserts that although neither the Petitioner nor his erstwhile Counsel had made any request for withdrawal of the petition, yet this Court passed the order, which is sought to be reviewed/recalled through the instant application.

Learned Counsel for the Respondents has vehemently controverted the contention of the Petitioner's Counsel and submits that on 01.07.2024, the order was passed in open court on the clear statement made by the then Petitioner's Counsel in the presence of his client (i.e. the Petitioner), as well as other Counsel for the parties. As such, the ground taken by the Petitioner for review of the order is not sustainable and the application being misconceived and an afterthought is liable to be dismissed with costs.

At the very outset, when learned counsel for the petitioner was confronted with the question of maintainability of this Application, being filed beyond the period of limitation, he was unable to provide a satisfactory reply. He submits that the period of filing a review application is thirty (30) days and the listed application is, therefore, filed within time. However, in support of his stance he has failed to cite any case law.

The limitation period prescribed for filing a review application against an order passed by a high court in exercise of its original jurisdiction is twenty (20) days from the date of a decree or order as per Article 162 of First Schedule of Limitation Act 1908. This Article states:

For a review of judgment by [a High Court] in the exercise of its original jurisdiction	Twenty Days	The date of decree or order
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The Lahore High Court in the case of NATASHA HUSSAIN v. SHABBIR HUSSAIN and 2 others [PLD 2013 Lahore 257], while dilating upon the issue of original jurisdiction of a high court, inter alia, observed:

“5. The concept of original jurisdiction as envisaged and stated in Article 162 of First Schedule of Limitation Act 1908 does not make any classification between the writ petitions instituted in this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 arising out of the proceedings of a civil suit or filed against some order independent of any civil suit proceedings. The concept of original jurisdiction as envisaged by Article 162 of First Schedule of Limitation Act, 1908 is with reference to the first forum available under the Constitution of Islamic Republic of Pakistan, 1973 for entertainment of a petition and passing of an order as visualized under Article 199 of the Constitution of Islamic Republic of Pakistan. The concept of original jurisdiction used in Article 162 of First Schedule of Limitation Act 1908 is in contrast to the exercise of appellate and revisional jurisdiction by the High Court.

6. It is further elaborated that the forum of the High Court for entertainment of the writ petitions has been created by the Constitution of Islamic Republic of Pakistan, 1973 under its Article 199 therefore when the High Court entertains a writ petition against any order whether judicial or administrative, it entertains the same in

exercise of its original jurisdiction which is conferred upon the High Court through the Constitution of Islamic Republic of Pakistan, 1973. ....”.

This Court, in the case of Hafiz ABDUL KHALIQUE SOOMRO v. GOVERNMENT OF SINDH through Secretary, Irrigation and Power Department, Karachi and others [PLD 2007 Karachi 374], while dealing with an identical issue, inter alia, has held as under:

“As the petition was dismissed in the exercise of original jurisdiction of this Court, therefore, for reviewing the judgment Article 162 of the Limitation Act will be applicable which provides that a review application can be filed within 20 days from the date of the order or judgment. Apparently the review applications have been filed beyond the period of limitation, hence, the same are time barred”.

The Supreme Court of Pakistan in the case of AHMED JAN and others v. QAZI AZIZUL HAQ and others [2009 SCMR 1022] while discussing a similar point, inter alia, held as follows:

“It is settled by now that when a petition is dismissed by the High Court in the exercise of its original jurisdiction, the application for review is governed by the provisions of Article 162 of the Limitation Act, which provides that a review application can be filed within 20 days from the date of the order or judgment. Apparently the review application has been filed beyond the period of limitation; hence, the same was hopelessly barred by time. In this behalf, reference can be made to the case reported as Nigar Bibi v. Salahuddin Khan PLD 1991 SC 197; Hafiz Abdul Khalique v. Government of Sindh PLD 2007 Kar. 374 and Desmond Vas v. K.B.C.A. PLD 2005 Kar. 161. Even otherwise, at the time of dismissal of Writ Petition No.544 of 2006 the respondent No.1 neither requested for condonation of delay in filing of review petition nor the Court condoned the delay, therefore, simple permission to file the review petition cannot condone the delay. Moreover, the respondent did not file application under section 5 of the Limitation Act for the condonation of delay in filing of review petition thus, the learned High Court has erred in entertaining the review petition.”

In MOHAMMAD SALLAH v. FEDERATION Of PAKISTAN [2019 MLD 2088], a Division Bench of this Court addressed a similar case, where the petitioners sought a review of a High Court order that had disposed of their constitutional petition based on their counsel’s

statement. Subsequently, they filed an application for restoration of their petition. However, since this application was submitted one day beyond the 20-day limitation period prescribed by Article 162 of the Limitation Act, 1908, the Court dismissed the review application as no justification for the delay was provided.

In the instant case, the order sought to be reviewed was passed by this Court on 01.07.2024 in presence of the Petitioner and his former Counsel, whereas the listed application was filed on 25.07.2024 i.e. after a delay of twenty-four (24) days and that too without filing any application seeking condonation of delay. Furthermore, if the Petitioner was aggrieved and dissatisfied by the said order, he ought to have approached this Court promptly, but instead he remained silent for about 24 days. It is also manifestly clear that the order sought to be reviewed has been passed in the exercise of original jurisdiction of this Court, and therefore Article 162 of the Limitation Act 1908 will be applicable which provides that a review application can be filed within 20 days' time from the date of the order or judgment; whereas the present application has been filed beyond the specified period of limitation.

In light of the above discussion, the listed application for review of the order dated 1.7.2024 is ***dismissed*** as time-barred.

JUDGE

JUDGE