

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI
C. P. No. S - 1414 of 2024

DATE

ORDER WITH SIGNATURE(S) OF JUDGE(S)

Fresh Case

1. For order on CMA No.10710/24 (urgent)
2. For order on office objection No.23 and reply of Counsel as at "A"
3. For order on CMA No.10711/24 (exemption)
4. For order on CMA No.10712/24 (u/a 199(4)(B))
5. For hearing of main case

06.12.2024

Mr. Abdul Faheem Memon, Advocate a/w Petitioner

1. Urgency granted.

2to5. Learned Counsel for the Petitioner Muhammad Shahbaz Khan has impugned the Order passed by the Additional District Judge Karachi East in Family Appeal No.183/2024 wherein he dismissed the said Appeal by the Judgment dated 04.07.2024 on the ground that the same was hopelessly time barred. Learned Counsel for the Petitioner/Defendant contends that the learned Appellate Judge did not appreciate that the Counsel who was representing the Defendant had not been engaged by the Defendant. When confronted if the Petitioner/Defendant had signed the Vakalatnama of the Defendant, who he claims was not his pleader the Petitioner's Counsel pleaded ignorance and sought time. The diary sheets reflect that the Petitioner/Defendant was present in person during the hearings on 02.08.23, 19.08.23, 29.08.23, 05.09.23 and 18.09.23. Further, diary sheets are not available in this Petition. Counsel contended that the Petitioner/Defendant is not a lawyer and hence was unaware of the proceedings. He simply continued to appear for the Court hearings in a mechanical manner without engaging a pleader hence he was also unaware that a Judgment and Decree had been passed by the trial Court on 21.12.23.

Based on the perusal of the Appeal, no documentary evidence is available to support the Counsel's contention that the Advocate

appearing after April 2023 had not been engaged by him and additionally that the Defendant himself requested the Court for time to engage an alternate Counsel. The record shows that the Petitioner/Defendant had decided not to engage a pleader and continued to appear in person himself. It is a trite proposition that ignorance of law is not an excuse. The Petitioner/Defendant has not made out any ground to explain why the delay in filing the appeal should be condoned. The Defendant cannot be excused for his indolent conduct especially when a vested right has accrued to the Respondent.

Accordingly, this Petition is dismissed with no order as to costs.

ASHRAF

JUDGE