

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

IIND APPEAL NO.383 OF 2024

Date

Order with Signature(s) of Judge(s)

HEARING OF CASE (PRIORITY)

- 1 FOR ORDERS ON OFFICE OBJECTION AS AT 'A'
2. FOR HEARING OF CMA. NO.9914/2024
3. FOR HEARING OF MAIN CASE.

05.03.2025

Mr. Ali Zaheer, advocate for the Appellant

Mr. Asad Haider Kazmi, advocate for the Respondent

This IInd Appeal has been filed against Judgment and Decree dated 23.10.2024 passed by the learned IVth Additional District Judge, Karachi East in Civil Appeal No.265 of 2024.

From perusal of the impugned Judgment and Decree it is evident that following points were framed:-

Point No.1. Whether the instant appeal is time barred?

Point No.2. Whether the instant appeal arising out of impugned order and modified decree dated 22-05-2024 suffers from illegalities and irregularities so as to require interference of this Court?

Point No.3. What should the result be?

The appellate Court proceeded to determine only Point No.1 which was primarily the issue of limitation and the appeal was dismissed whereof learned counsel for Appellant preferred instant IInd Appeal against the said judgment. Controversy regarding limitation is verily summarized in the order dated 19.12.2024 passed in this appeal.

Fundamentally, the controversy is regarding the date of application for certified copy filed by the counsel for the Appellant. Learned counsel for the Appellant contends that he filed application for certified copy and

on the same date of the Order passed in Civil Suit Number 34/2020. The order in the said Civil Suit was passed on 22.05.2024.

Whereas, learned counsel for the Respondent has stated that the application was filed on 02.07.2024, approximately two and half months after passing of Order dated 22.05.2024 by the Trial Court.

Learned counsel for the Appellant has stated that this is the mistake of copyist and not the advocate for Appellant and, therefore, he should not be penalized for such mistake. It has also come on record that the learned counsel for the Appellant in Civil Appeal No.265 of 2024 filed an application under Section 5 of the Limitation Act, 1908 for condonation of delay, acknowledging a delay of 9 days. When question regarding said application was put to the learned counsel for the Appellant, he has categorically stated that the application was incorrectly filed and the appeal was in time.

To determine controversy this Court on 19.12.2024 called for Statement of the concerned trial Court and same was filed on 17.01.2025. I have also examined application filed by the learned counsel for Appellant which at the bottom mentions the date as 22.05.2024. However, same application with signature also mentioned date 02.07.2024. To resolve this controversy the register of copyist has been annexed with statement dated 17.01.2025 (filed pursuant to Order dated 19.12.2024).

It is evident from the examination of copyist's register that the Appellant filed application for certified copy on 31.05.2024 and no entry for certified copy on behalf of the Appellant is shown on 22.05.2024. Entry in the copyist register on behalf of the Appellant is noted to be on 02.07.2024 cost of which, was estimated on 04.07.2024 and paid on 06.07.2024. Copyist register also reflects that before and after the said application was filed by the learned counsel for Appellant, various

applications have been filed, therefore, no question can be raised regarding entry made in such register.

In the light of above, I find that the Civil Appeal No.265 of 2024 was hopelessly time barred. Impugned Judgment suffers no illegality. Consequently, instant IInd Appeal is hereby dismissed with no order as to costs.

JUDGE

MUSHARRAF ALI