

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI
IInd Appeal No. 240 of 2019

Date	Order with signature of Judge
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- 1.For order on CMA No.9683/2024
- 2.For order on office objection
- 3.For hearing of CMA No.1899/2022
- 4.For hearing of CMA No.7112/2019
- 5.For hearing of main case

26.03.2025

M/s. Abdul Wahab Baloch & Ahmed Ali, Advocates for the appellant.
Mr. Naveed Ali, Advocate for respondent No.1

CMA No.9683/2024 granted as prayed. Amended title has already been filed alongwith instant application.

CMA No.1899/2022 has been filed under Section 5 of the Limitation Act 1908 for condonation of delay in filing the instant second appeal. Learned counsel for the appellant in this regard has submitted that delay in filing of the appeal can solely be attributed to the mental condition of the appellant which arose from the tragic demise of his only son. He has stated that he has provided medical record alongwith the said application which reflects that the appellant is suffering from depression due to untimely demise of his son.

Learned counsel for the respondent has invited my attention to the various delays in filing of appeal and has emphasized that the condonation of delay has been repeatedly sought by the appellant. However, given the reasons advanced for delay in filing of the instant appeal the learned counsel did not vehemently contest the grant of this application on compassionate grounds.

I have heard both the learned counsel and examined the medical record filed with the said application. While it is trite law that delay of each and every

day has to be explained in an application under Section 5 of the Limitation Act, I cannot conceive a better reason for the instant application to be allowed. Moreover, the law favours adjudication on merits and not on technicalities¹, therefore, this application (CMA No.1899/2022) under Section 5 of the Limitation Act is hereby allowed. The matter shall be proceeded on merits. If the appellant fails to proceed with the matter on any date then the same may be dismissed for non-prosecution.

To come up on 21.04.2025.

JUDGE

Aadil Arab

¹ Hyderabad Development Authority v. Abdul Majeed (PLD 2002 .S.C 84) & Head Master Government High Court Ratodero v. Imamuddin (2020 CLC 1568)