

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD**

**BEFORE:
MR. JUSTICE MIRAN MUHAMMAD SHAH
MR. JUSTICE MUHAMMAD HASAN (AKBER)**

1st Appeal No.D-23 of 2024

Appellant:	Mr. Soojharo and others through Mr. Altaf Sachal Awan Advocate.
Respondent:	The Government of Sindh and others, through Mr. Allah Bachayo Soomro, Additional Advocate General.
Date of hearing:	11.03.2025
Date of decision:	11.04.2025

J U D G M E N T

MUHAMMAD HASAN (AKBER), J.- By way of the instant appeal, the Appellant has assailed the Judgment and Decree dated 19.03.2016 passed by the Court of learned 2nd Additional District Judge, Shaheed Benazirabad in Land Acquisition Reference No.06 of 2012 '*Soojahro and others v. Assistant Commissioner Sakrand and others*' whereby the said Reference filed by the applicants was dismissed.

2. Brief background of the proceedings is that an Award dated 03.08.2012 under section 11 of the Land Acquisition Act, 1894 was passed by the Assistant Commissioner/ Land Acquisition Officer Sakrand with respect to land bearing Survey No.175/7, 8, 9 total area (3.00 acres), acquired in Deh Chan Biar, Taluka Sakrand, District Benazirabad, Sindh for different pipeline project of Taluka Sakrand, wherein the present Appellant was a *khatedar*. Such Award was assailed in Reference 06/2012 before the learned 2nd Additional District Judge, Shaheed Benazirabad, which was decided vide the impugned Judgment. The Respondent No.1 filed objections and denied the averments raised in the Reference, wherein after the Issues were also framed by the Court, however upon failure to produce the evidence for around a year, the impugned Judgment was passed by the learned Judge.

3. At the very outset, learned Additional Advocate General objects to the very maintainability of the Appeal on the ground that the Judgment dated 19.03.2016 has been challenged on 15.04.2024 and therefore the instant appeal it is hopelessly barred by (8) eight long years. The Office Objection No.1 also raises the same question on maintainability of this appeal on the ground of limitation. Along with the Appeal, an application under section 5 of the Limitation Act (CMA.2460/2024) has also been filed along with the Affidavit of appellant. The main ground for delay in filing this appeal has been attributed to lack of knowledge of passing of the impugned Judgment by the learned 2nd Additional District Judge, Shaheed Benazirabad. The date on which certified copy of the impugned Judgment was applied and the same was received, is 15th March 2024.

4. The general principles governing the law of limitation, start with the basic rule that law of Limitation is not a mere technicality but once the limitation expires, a right accrues in favour of the other side by operation of law, which cannot lightly be taken away nor can it be lightly disturbed or brushed aside, unless "sufficient cause" is shown to the satisfaction of the Court. Reference can be made to the cases of '*Asad Ali v. Bank of Punjab*' ¹, '*Ghulam Qadir v. Abdul Wadood*' ², '*Abdul Sattar v. Federation of Pakistan*' ³, '*Muhammad Islam v. Inspector-General of Police*'⁴ and '*Muhammad Anwar (deceased) through L.Rs. and others V. Essa and others*'⁵. As on part of the litigant, it has been held by the Courts as the duty of every litigant to pursue his case diligently and vigilantly, and to keep track of his cause on regular basis, by inquiring its progress from his counsel at every stage of the case, and after every date of hearing as held in the case of '*Sheikh Nadeem Rehmat V. Mrs. Zarqa Jahanzeb and 4 others*' ⁶. Such responsibility has been imposed because of basic legal principle that for the negligence of one party or his counsel, the other party should not be penalised, as decided by the Supreme Court in the case of '*Zilfiqar Ali V. Lal Din and another*' ⁷.

1. PLD 2020 SC 736
2. PLD 2016 SC 712
3. 2013 SCMR 911
4. 2011 SCMR 8
5. PLD 2022 Supreme Court 716
6. PLD 2024 Sindh 202 (DB)
7. 1974 SCMR 162

5. In addition to the above, not only delay of each and every day is also required to be explained by the party, and where delay is not explained through a sufficient cause, the same cannot be condoned. Reliance in this behalf is placed on '*Lt.-Col. Nasir Malik v. Additional District Judge and others*'⁸. In the case of '*Imtiaz Ali v. Alta Muhammad and another*'⁹, even a single day's delay in filing of an appeal was not condoned by the Supreme Court, since it had created valuable right in favour of the respondents, and no sufficient cause was found for filing the appeal beyond the period of limitation. The law of limitation may harshly effect a particular party, but it has to be applied with all its rigour in accordance with the applicable law and, the Courts have no power to extend the period of limitation on equitable grounds". These are the words expressed by the Supreme Court of India in the case of '*P.K. Ramchandran v. State of Kerala and others*'¹⁰.

6. A quick survey of the cases dealing with respect to issues of Limitation occurring under the Land Acquisition Act the wherein delay was not condoned by the Courts in Pakistan are discussed below, which were even for a much lesser periods as compared to the instant case, wherein the delay is of 8 years. Starting with the case of '*Collector Land Acquisition, Abbottabad and others v. Fazal-Ur-Rehman and others*'¹¹ wherein unexplained delay of 2 years in Land Acquisition appeal was not condoned by the Supreme Court. Other cases for reference are, '*Government of N.W.F.P., through Secretary W&S Department and 2 others v. Muhammad Iqbal Khan and others*'¹², '*Province Of Punjab through District Officer (Revenue) Bhakkar and another v. Noor Muhammad and 3 others*'¹³, '*Province Of Sindh, Secretary Board Of Revenue, Government Of Sindh through District Officer v. Deputy District Officer (Rev) and 2 others*'¹⁴, '*Mst. Dana Begum and 4 others V. Azad Government of The State of Jammu And Kashmir and 25 others*'¹⁵, '*Raja Jawaid and 4 others v. Collector, Land Acquisition, Khanpur Dam, Haripur*'¹⁶, '*Land Acquisition Collector No. II, Tarbela Dam and 2 Others v. Dilbar Khan and 8 Others*'¹⁷, '*Government of Pakistan and others V. Sarkar and others*'¹⁸, and '*Khanan Khan V. Additional Commissioner, Peshawar Division, Peshawar and 2 others*'¹⁹.

8. 2016 SCMR 1821

9. PLD 2008 SC 462

10. (1997) 7 SCC 556

11. 2009 S C M R 767

12. PLD 2007 Peshawar 98

13. 2016 M L D 1787

14. 2015 Y L R 209

15. 1997 M L D 2359

16. PLD 1997 Peshawar 30

17. P L D 1987 Peshawar 1

18. 1997 C L C 434

19. 1996 M L D 1428

7. On the same issue but in a different context, it will also have to be considered that in view of section 29(3) read with section 3 of the Limitation Act, section 5 of the Limitation Act has been held as inapplicable to the cases under the Land Acquisition Act 1894, being a special law. Some of cases which support such view are, '*Mst. Dana Begum*'^{16, 20} *supra*, '*Raja Jawaid and 4 others v. Collector, Land Acquisition, Khanpur Dam, Haripur*'²¹ and '*Port Qasim Authority through Secretary V. Executive District Officer (Revenue), Karachi and others*'²².

8. Perusal of record in the present case shows that the instant appeal has been filed on 15.04.2024, after a period of around 08 years from the date of passing of the impugned Judgment dated 19.03.2016. The appellant ought to have remained more and more vigilant about his own case after demise of his counsel. As already held in the above referred Judgments, law does not help the indolent; that each and every day of delay in filing of the appeal was required to be explained, through sufficient cause; and that valuable rights have been created in favour of the opponent party due to appellant's such delay. The appellant could neither show sufficient cause for even a single day, nor was he diligent, and for which, it would be completely unfair to penalize the Respondent, hence the delay in the present case cannot be condoned on equitable grounds, as held in the above decisions. The principle is that, neither appellant could be allowed to take benefit of his own mistakes, nor the Respondent should be punished for the negligence and indolence of the Appellant.

9. Upshot of the above discussion is that, the instant Appeal is dismissed as being hopelessly time-barred. These are the reasons for our short Order dated 06.03.2025.

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20. PLD 1971 Azad J&K 33

21. PLD 1997 Peshawar 30

22. 2017 Y L R Note 14