

THE HIGH COURT OF SINDH, CIRCUIT COURT,  
LARKANA

**Civil Revision Application No. S - 141 of 2023**

[Zaheer Abbas versus Province of Sindh & others]

Applicant/Plaintiff : Zaheer Abbas son of Mushtaque Ali through Mr. Ghayoor Abbas M. Shahani, Advocate.

Respondents 1 to 4 : Province of Sindh through Secretary Irrigation Department and three others through M/s. Abdul Waris Bhutto and Munawar Ali Abbasi, Assistant Advocate Generals Sindh.

Dates of hearing : 02-02-2026 & 09-02-2026

**JUDGMENT**

**Adnan Iqbal Chaudhry J.** - Applicant/Plaintiff filed Suit No. 86/2020 against the Province of Sindh and officers of the Irrigation Department before the Senior Civil Judge, Larkana for recovery of Rs. 49,59,905/- for goods and equipment supplied under contract to said Department in 2014 for re-enforcing the embankment of Dadu Canal at Tajo Dero Sub-Division.

2. In the first round, the Senior Civil Judge rejected the plaint on the ground that the suit filed in 2020 for recovery of bills raised in 2014, was time-barred. The order was sustained in Civil Appeal No. 123/2020. However, upon Revision Application No. 18/2021, the High Court revived the suit when the Plaintiff contended that the Department had acknowledged its liability by letter dated 24.07.2020. The High Court thus held that limitation became a mixed question of law and fact which could only be determined after recording evidence.

3. On behalf of the Irrigation Department, written statement was filed by the Executive Engineer, Northern Dadu Division and the Assistant Executive Engineer, Larkana (Defendants 3 and 4). They stated in para 9 that :

*“Outstanding dues/6 years old liabilities amount cannot be paid from current budget and other side in this position matter of plaintiff regarding payment has already been moved to the department with request for releasing of outstanding amount in favour of plaintiff (attached as Annexure-A), but original record is not traceable at this time”.*

‘Annexure-A’ to the written statement was photocopy of a letter dated 24.07.2020 by the Executive Engineer to the Superintending Engineer seeking additional funds for settling the Plaintiff’s bills.

4. Based on para 9 of the written statement, the Applicant/Plaintiff made an application under Order XII Rule 6 CPC for judgment on admission. The Defendants contested, submitting that since documents relied upon by the Plaintiff did not exist in the record of the Department, there was no admission of liability. The application was dismissed by the trial Court on the ground that in Revision Application No. S-18/2021 the High Court had ordered that the suit should be decided after recording evidence.

5. After recording evidence, the suit was again dismissed by the trial court *vide* judgment/decree dated 13.04.2023. The Applicant preferred Civil Appeal No. 90/2023, which too was dismissed by the VI-Additional District Judge, Larkana *vide* judgment/decree dated 15.09.2023; hence, this revision application.

6. Heard learned counsel and perused the record.

7. The trial Court’s reasons for dismissing the suit were: (a) that the Plaintiff had filed suit on behalf of a company namely ‘Shahani & Brothers’, but there was no such authorization by said company to the Plaintiff; (b) that the Plaintiff could not prove that he was a licensed Government contractor, or that he was awarded the subject contract by the Department, or that he had performed said contract; (c) that officers of the Irrigation Department who filed written statement, appeared to be in collusion with the Plaintiff, and therefore the written statement should be viewed with caution. The Appellate Court did not dwell on ground (a), rather upheld the judgment of the

trial Court essentially on ground (b), and further held that since existence of letter dated 24.07.2020 was not proved, the suit was time-barred.

8. The observation by the trial Court that the suit was on behalf of a company namely 'Shahani & Brothers', was not based on the evidence, rather on a document produced by the Plaintiff during final arguments. The plaint and documents annexed to the plaint mention the contractor as the Plaintiff, not 'Shahani & Brothers'. Therefore, the finding that the Plaintiff was not authorized to file suit, was clearly a non-reading of the pleadings and the evidence. However, that was not the sole ground for dismissing the suit. As discussed *infra*, the trial Court had also dismissed the suit on the merits.

9. With the plaint, the Applicant/Plaintiff had annexed photocopies of documents consisting of: (i) letter dated 17.10.2024 issued by the Superintending Engineer to the Executive Engineer to sanction 12 estimates submitted by the Plaintiff for supplying material and equipment; (ii) letters issued by the Executive Engineer to the Plaintiff in October and November, 2014, informing him that he was lowest bidder; (iii) Forms 24 issued by the Assistant Engineer in October and November, 2014 to verify the Plaintiff's bills; (iv) extracts of the Measurement Book. But then, no document whatsoever was tendered in evidence by the Plaintiff.

10. As narrated above, it was averred by the Department at the onset that its record did not contain any of the documents annexed to the plaint. On examination-in-chief, the Assistant Executive Engineer posted at Tajo Dero Sub-Division at the time, came out clearly to suggest that said documents were manipulated. He deposed that: *"There is no any record in our office with regard to the work orders mentioned by plaintiff in present suit. There is also no any agreement/contract between our department and plaintiff with regard to suit contracts. There is also no any bidding record in our office with regard to suit/contract work orders. There is also no any record of Comparative Rate*

*Lists with regard to suit/contract work orders.”* On examination, the Assistant Executive Engineer also stated that letter dated 24-07-2020 filed with the written statement, seeking additional funds for payment to the Plaintiff, did not exist in the Department’s record; hence the observation by the trial Court that previous officers of the Department were in collusion with the Plaintiff. Despite the foregoing, the Plaintiff did not make any attempt to produce even secondary evidence under Article 76 of the Qanun-e-Shahadat Order, 1984 of documents filed with the plaint. The Plaintiff’s case was therefore, of no evidence.

11. At the stage of final arguments before the trial Court, the Applicant/Plaintiff made an application under Order XVI Rule 1 CPC to summon officers of the Department to produce documents annexed to the plaint. That application was of course dismissed. There was no point to such application when the Department had denied existence of such documents and the Plaintiff himself had not led secondary evidence of those documents.

12. It was submitted by learned counsel for the Applicant that the suit was liable to be decreed on admission of liability made in the written statement. However, it is settled law that for judgment on admission, the admission should be specific, clear, unambiguous and categorical.<sup>1</sup> One look at the written statement will show that was hardly the case.

13. The learned Additional District Judge also found the suit to be barred by limitation *albeit* based on Article 56 of the Limitation Act, 1908. Though the Defendants had pleaded limitation as a defense, a specific issue in that regard was not framed by the trial Court. However, that did not matter, for section 3 of the Limitation Act requires the Court to dismiss a time-barred suit even if limitation is not set up as a defense.

---

<sup>1</sup> See *Macdonald Layton & Company Pakistan Ltd. v. Uzin Export Import Foreign Trade Co.* (1996 SCMR 696).

14. Plaintiff's claim was for non-payment of goods and equipment supplied to the Irrigation Department for re-enforcing the embankment of Dadu Canal. For bills pertaining to goods sold and delivered to the Department for said works such as gunny bags, the suit for recovery was governed by Article 52 of the Limitation Act, which provided a period of three years from the date of delivery of goods. For bills pertaining to supply of tractor and trolley on hire, the suit for recovery was governed by Article 50 of the Limitation Act, which too provided a period of three years from the date the hire became payable. It was the Plaintiff's case that bills for both type of supplies were due for payment in November 2014. Therefore, limitation for the suit expired in November 2017. The suit filed in 2020 was clearly time barred.

15. Learned counsel for the Applicant submitted that limitation was renewed under section 19 of the Limitation Act, 1908 by virtue of letter dated 24.07.2020 written by the Executive Engineer to the Superintending Engineer seeking additional funds to make payment to the Plaintiff, which constituted acknowledgment of liability. Firstly, the existence of letter dated 24.07.2020 was never proved in evidence. Secondly, even if such letter existed, it was written much after limitation for the suit had expired. Under section 19 of the Limitation Act, a fresh period of limitation is computed from the date of acknowledgment of liability only if that acknowledgment is made before expiry of the prescribed period of limitation. Therefore, section 19 of the Limitation Act is of no help to the Applicant.

16. In view of the foregoing, even though the trial Court had erred in holding that the suit was by an unauthorized person, the finding that the Applicant/Plaintiff did not prove that he was awarded the subject contract, and that the suit was time-barred, do not suffer from any illegality. Resultantly, the revision application is dismissed.

**JUDGE**

Signed at Hyderabad  
on: 06-05-2026

Announced by & on: