IN THE HIGH COURT OF SINDH AT KARACHI

<u>Miscellaneous Appeal No.89 of 2025</u>

(*Mir Shakil Ur Rahman v. Salman Iqbal & Another*)

<u>Before</u>:

Sana Akram Minhas J

Appellant	Mir Shakil Ur Rehman Through, M/s Dr. Mahmood Ahmed & M. Tahir Iqbal, Advocates
Respondents	(1) Salman Iqbal (2) Farooq Sami Through, M/s Ravi Pinjani & Hamza H. Hidayatullah, Advocates
<u>Date of Hearing</u>:	**8-4-2026**
<u>Date of Decision</u>:	**14-7-2026**

<u>O R D E R</u>

1. **<u>Sana Akram Minhas, J</u>**: Through the present Miscellaneous Appeal – preferred under Section 15[1] of the *Defamation Ordinance, 2002* **("Ordinance")** – the Appellant has assailed the Judgment and Decree dated 7.4.2025 **("Impugned Judgment")** passed by the learned Additional District & Sessions Judge–II. By the Impugned Judgment, the Trial Court dismissed the Appellant's Civil Suit No.41/2015 (*Mir Shakil Ur Rehman v. Salman Iqbal & Another*) on the finding that the Appellant had failed to prove the damages said to have been suffered as a result of the alleged defamatory broadcast.

<u>Preliminary Objection</u>

2. As a preliminary matter, learned Counsel for the Respondents, objected to the maintainability of the present Appeal on the ground that it is barred by limitation. Counsel submitted that Section 15 of the Ordinance prescribes a statutory period of thirty (30) days for filing an appeal. According to him, this Appeal ought to have been instituted on or before 8.5.2025, whereas it was actually filed on 23.6.2025, resulting in a delay of approximately forty-five (45) days. The present Order is confined to the determination of the aforesaid preliminary objection.

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[1] <u>Section 15</u>: **Appeal.** – An appeal against the final decision and decree of the Court shall lie to the High Court within thirty days and High Court shall decide the appeal within sixty days.

Relevant Dates

3. The material dates relevant to the question of limitation are as follows:

SR. NO.	PARTICULARS	DATE
1.	Trial Court's Impugned Judgment	Announced on 7-4-2025 (Monday)
2.	Trial Court's Impugned Decree	Prepared on 7-4-2025 (Monday)
3.	Application for certified copy of Impugned Judgment and Decree submitted by Appellant	On 11-4-2025 (Friday)
4.	Fee for certified copy estimated by copyist on same day	On 11-4-2025 (Friday)
5.	Fee for certified copy deposited / paid by Appellant	On 8-5-2025 (Thursday)
6.	Certified copy made ready by copyist	On 10-5-2025 (Saturday)
7.	Signed by concerned Court's Serishtedar / Reader	On 10-5-2025 (Saturday)
8.	Stamp supplied by Appellant	On 4-6-2025 (Wednesday)
9.	Certified copy delivered to / received by Appellant	On 4-6-2025 (Wednesday)
10.	Instant Misc. Appeal presented in High Court	On 23-6-2025 (Monday)

4. Accordingly, a prima facie computation of limitation, based on the foregoing chronology, is as follows:

SR. NO.	PARTICULARS	DATE / PERIOD	PRIMA FACIE COMPUTATION
1.	Statutory period of limitation for filing the Misc. Appeal	****	30 days
2.	Limitation commenced	8-4-2025	****
3.	Time consumed by Appellant before applying for certified copy	8-4-2025 to 10-4-2025	3 days
4.	Delay by Appellant in depositing copying fee (computed by excluding both 11-4-2025, being the date on which application for certified copy was submitted and the copying charges were estimated, and 8-5-2025, being the date on which such charges were actually deposited)	12-4-2025 to 7-5-2025	26 days
5.	Total limitation exhausted	As on 7-5-2025	29 days (3 + 26)
6.	Remaining limitation	8-5-2025	1 day
7.	Last date for filing Misc. Appeal	8-5-2025	****
8.	Misc. Appeal actually filed on	23-6-2025	****
9.	**Prima facie delay beyond limitation**	**9-5-2025 to 22-6-2025**	**45 days**

Respective Submissions

5. In response to the preliminary objection, learned Counsel for the Appellant contended that the instant Appeal was within the prescribed period of limitation and sought to justify its maintainability on the following grounds:

i) Although the certified copy had been prepared and signed on 10.5.2025, it did not become a complete certified copy until the requisite stamp was supplied/affixed on 4.6.2025, whereafter it was delivered to the Appellant on the same date. According to the Counsel, the period up to 4.6.2025 constituted the "*time requisite*" within the meaning of Section 12 of the *Limitation Act, 1908* **("Limitation Act")**, for obtaining the certified copy and was, therefore, liable to be excluded while computing the period of limitation. He further averred that by 4.6.2025, the date on which the stamp was supplied/affixed and the certified copy became ready for delivery, the summer vacations of this Court had already commenced.

ii) Building upon the aforesaid submission, Counsel contended that, in terms of the Notification dated 6.5.2025 issued by the Registrar of this Court, the High Court remained closed for summer vacations from 2.6.2025 (Monday) to 3.8.2025 (Sunday), with 4.8.2025 (Monday) being the first reopening day. He argued that, since the certified copy was supplied on 4.6.2025 during the subsistence of the summer vacations, the Appellant was entitled to the benefit of Section 4[2] of Limitation Act, and the present Appeal, instituted on 23.6.2025 (Monday) along with an urgent application (CMA No.4694/2025), was therefore within limitation. To advance this contention, he cited 2020 CLC 1068 (*Asma Hassan v. Askari Bank Limited*).

iii) He lastly asserted, albeit feebly, that the Impugned Decree was not prepared on 7.4.2025 but was prepared subsequently and backdated to coincide with the date of the Impugned Judgment (i.e. 7.4.2025).

6. On the other hand, learned Counsel for the Respondents, in support of his preliminary objection as to limitation, submitted that the expression "*time requisite*" in Section 12 of Limitation Act refers only to the period consumed by the Court in processing, preparing and issuing the certified copy, and not to any delay attributable to the litigant. He pointed out that the copying charges were estimated on the very day the Appellant applied for the certified copies, i.e. 11.4.2025, but were deposited only on 8.5.2025. Accordingly, the intervening period, being wholly attributable to the Appellant, could not be excluded in computing limitation. In support of his submissions, Counsel relied upon 2022 SCMR 1868 (*Pak Leather Crafts Limited v. Al-Baraka Bank Pakistan Limited*).

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[2] <u>Section 4</u>: **Where Court is closed when period expires**: Where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day that the Court re-opens.

Statutory Framework

7. Section 15 of the Ordinance prescribes a period of thirty (30) days for filing an appeal to the High Court against a judgment and decree. On the face of the record, the present Appeal, having been instituted on 23.6.2025, is, *prima facie*, beyond the prescribed period of limitation, subject to any exclusion of time permissible under the Limitation Act. However, by virtue of Section 29(2)(a) of the Limitation Act, the benefit of Section 12 thereof is available in computing the period of limitation for an appeal under Section 15 of the Ordinance. Section 12(2) provides that, in computing the period of limitation prescribed for an appeal, the "*time requisite*" for obtaining a copy of the decree appealed from shall be excluded.

Decision

8. The rival submissions have been considered and the record perused.

Allegation Regarding Backdating Of The Impugned Decree

9. The last submission advanced on behalf of the Appellant may be disposed of at the outset, as it does not warrant elaborate consideration. When called upon by the Court to identify where such a serious allegation had been pleaded, the Counsel for the Appellant was constrained to concede that no such plea had ever been raised in the Memorandum of Appeal and that no application seeking condonation of delay had been filed. A contention of this nature, raised for the first time during the course of oral arguments without any foundational pleading, is plainly an afterthought and cannot be entertained.

Construction Of The Expression "Time Requisite" Under Section 12 And The Effect Of The Summer Vacation Notification

10. Before considering the applicability of the Notification dated 6.5.2025 declaring the summer vacations of the High Court, it is necessary to determine the proper construction of the expression "*time requisite*" occurring in Section 12[3] of the Limitation Act, since the Appellant can derive any benefit from the

[3] Section 12: **Exclusion of time in legal proceedings**: (1) In computing the period of limitation prescribed for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded.

(2) In computing the period of limitation prescribed for an appeal, an application for leave to appeal and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be reviewed, shall be excluded.

(3) Where a decree is appealed from or sought to be reviewed, the time requisite for obtaining a copy of the judgment on which it is founded shall also be excluded.

said Notification only if, after excluding such period, the prescribed period of limitation expired during the summer vacation.

11. The aforesaid question stands authoritatively answered by the Supreme Court in ***Pak Leather Crafts Limited v. Al-Baraka Bank Pakistan Limited*** **(2022 SCMR 1868)**, wherein the scope of Section 12 of Limitation Act, including the meaning of the expression "*time requisite*" and the effect of subsection (5), was comprehensively considered. The principles laid down in the said judgment may be summarised as follows:

i) The expression "*time requisite*" in Section 12 refers only to the period properly required for obtaining the certified copy, namely, the time attributable to the Court or its officials in processing, preparing and issuing the certified copy. It does not include delay attributable to the litigant.

ii) The burden rests on the party seeking exclusion of time to establish that the period claimed to be excluded was properly required and that no part of the delay was occasioned by that party's own default, negligence or lack of due diligence.

iii) The mere filing of an application for a certified copy does not, by itself, suspend or stop the running of limitation. Even after the insertion of Section 12(5), limitation does not stand arrested merely because an application for a certified copy has been submitted.

iv) An application for a certified copy presupposes payment of the prescribed copying charges and becomes effective only upon such payment. Accordingly, the period consumed by a litigant in depositing these charges does not constitute "*time requisite*" and is not liable to be excluded, unless the delay is shown to be attributable to the Court in estimating the prescribed copying charges or otherwise demanding payment thereof.

v) The deeming fiction introduced by Section 12(5) must be confined to the legislative purpose for which it was enacted. It was introduced for the limited purpose of removing uncertainty regarding the period between the effective application for a certified copy and the date intimated by the copying agency for its delivery. It cannot be

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(4) In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

(5) For the purposes of subsections (2), (3) and (4), the time requisite for obtaining a copy of the decree, sentence, order, judgment or award shall be deemed to be that time intervening between the day on which an application for the copy is made and the day actually intimated to the applicant to be the day on which the copy will be ready for delivery.

interpreted so as to enlarge the statutory period of limitation or enable a litigant, by delaying payment of the copying charges, to suspend the running of limitation.

vi) A party seeking the benefit of Section 12 must satisfactorily explain any delay attributable to it. In the absence of such explanation, the period occasioned by that party's own default or inaction cannot be excluded in computing limitation.

12. The principles laid down by the Supreme Court in <u>*Pak Leather Crafts*</u> (supra) squarely govern the present case. The Appellant applied for certified copies on 11.4.2025, and the copying charges were estimated on the very same day. There was, therefore, no delay whatsoever attributable to the Court in estimating the prescribed copying charges. Despite this, the Appellant deposited the copying charges only on 8.5.2025, i.e. twenty-six (26) days later, without furnishing any explanation for such delay. In view of the law declared in <u>*Pak Leather Crafts*</u>, the said period cannot be treated as "*time requisite*" within the meaning of Section 12 of the Limitation Act, as the entire delay was attributable to the Appellant's own default. Consequently, the said period is not liable to be excluded while computing limitation.

13. The Appellant's contention that the certified copy became complete only upon the supply/affixation of the stamp on 4.6.2025 is misconceived and liable to be rejected for the following reasons:

i) One, this contention was neither pleaded in the Memorandum of Appeal nor otherwise raised in the pleadings. It was advanced for the first time during the course of arguments.

ii) Two, even otherwise, the record does not establish that the supply of the stamp on 4.6.2025 was delayed on account of the Court. Rather, the Appellant, being the applicant/litigant, was required to furnish the requisite stamp, and there is no material to show that any delay in doing so was attributable to the Court.

iii) Three, in any event, for the purposes of Section 12 of the Limitation Act, the material date is the date on which the certified copy was prepared and made ready by the copying branch, namely, 10.5.2025. This is evident from the endorsement of the copyist and is further fortified by the signature of the Reader/Serishtedar bearing the same date, signifying that the certified copy had been duly prepared and authenticated. The subsequent supply of the stamp on 4.6.2025, after the certified copy had already been prepared and made ready, did not constitute an essential step in its preparation so as to extend the "*time* *requisite*" for obtaining it within the meaning of Section 12. Accordingly, even assuming that there was any delay in the supply or affixation of the stamp after 10.5.2025, such delay cannot be excluded in computing the prescribed period of limitation.

14. Furthermore, no application for condonation of delay has been filed, nor has any sufficient cause been pleaded or established for extending the prescribed period of limitation.

15. Accordingly, once the period attributable to the Appellant's delay in depositing the copying charges is included in computing the prescribed period of limitation, and the Appellant's contention that the certified copy became complete only upon the supply/affixation of the stamp is rejected, the prescribed period of limitation expired on 8.5.2025, i.e. well before the commencement of the High Court's summer vacation on 2.6.2025. It follows that the Notification dated 6.5.2025 declaring the summer vacations has no application to the present case, since it can operate only where the prescribed period of limitation, computed after giving effect to all permissible statutory exclusions, expires during the period of vacation.

16. Nor does the decision in ***Asma Hassan v. Askari Bank Limited*** **(2020 CLC 1068)**, relied upon by the Appellant's Counsel, assist the Appellant. The controversy before the Division Bench in the cited decision did not concern the meaning or scope of the expression "*time requisite*" occurring in Section 12 of the Limitation Act, nor was there any dispute regarding the period liable to be excluded under the said provision. The Division Bench proceeded on the admitted factual premise that the entire period commencing from the filing of the application for certified copies until the date on which those copies were made available constituted the "*time requisite*" within the meaning of Section 12 and, on that basis, computed the period of limitation. Having first determined the period liable to be excluded under Section 12, the Division Bench concluded that the prescribed period of limitation expired during the summer vacations of the High Court. It was only thereafter that the Court proceeded to consider the applicability of Section 4 of the Limitation Act and, placing reliance on the judgment of the Supreme Court in ***Province of Punjab v. Muhammad Saleem*** **(PLD 2014 SC 783)**, held that, notwithstanding the expiry of the period of limitation during the summer vacations, the appeal, having been presented during the vacation along with an urgent application seeking interim relief, was entitled to the protection afforded by Section 4.

17. Quite apart from the foregoing, the present Appeal is distinguishable even on facts. Although the Appeal was accompanied by CMA No.4694/2025 (described as an urgent application), the said application was merely

presented and no further steps were taken for its fixation before the Court during the summer vacation. The space provided for indicating the date of its fixation before the Court was left blank and continues to remain so to this day. Consequently, the application was never even fixed/placed before the vacation bench of this Court during the summer vacations. It is also significant that no interlocutory application seeking interim relief accompanied the said urgent application.

18. Accordingly, *Asma Hassan* (supra) does not assist the Appellant on the threshold question as to what constitutes the "*time requisite*" under Section 12 of the Limitation Act. At best, it reiterates the settled principle that once the period liable to be excluded under Section 12 has been correctly determined, and the prescribed period of limitation is found to have expired during the Court's vacation, the protection of Section 4 of the Limitation Act may become available. Since, in the present case, the applicability of Section 4 is itself contingent upon the prior computation of limitation under Section 12, and the Appellant has failed to establish that any period beyond that permissible under Section 12 was liable to be excluded, the question of invoking Section 4 does not arise.

Conclusion

19. In view of the foregoing discussion, the preliminary objection succeeds. The Appellant is entitled neither to the exclusion contemplated by Section 12 of the *Limitation Act, 1908* nor to the protection afforded by the Notification dated 6.5.2025 declaring the High Court's summer vacations. The present Appeal is, therefore, held to be barred by limitation and is accordingly ***dismissed*** as time-barred by forty-five (45) days. There shall be no order as to costs.

JUDGE