

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
High Court Appeal No. 163 of 2022
(*Syed Sulaiman Jafri v. United Bank Limited & Others*)

DATE:	ORDER WITH SIGNATURE(s) OF JUDGE(s)
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For Hearing of CMA No.1353 / 2022 (Review App)

14-4-2025

Mr. Imtiaz Ali Effendi, Advocate for Appellant
Mr. Suleman Hudda, Advocate for Respondent No.1 (UBL)
Syed Bashir Hussain Shah, Assistant Attorney General

ORDER

- Sana Akram Minhas, J:** This order addresses CMA No.1353/2024, an application for review (“**Review Application**”) filed by the Appellant under Section 114 read with Order 47 Rule 1 and Section 151 of the *Code of Civil Procedure, 1908* (“**CPC**”), seeking review of the judgment dated 23.5.2024 (“**Appellate Judgment**”). By the Appellate Judgment, the instant Appeal was dismissed, and the order of the learned Single Judge dated 22.3.2022 – which rejected the Appellant’s Plaint in Suit No.1979/2019 (*Syed Sulaiman Jafri v. United Bank Limited & Others*) (“**Underlying Suit**”) as time barred on Respondent No.1’s application under Order 7 Rule 11 CPC – was upheld.
- It may be noted that the Appellate Judgment under review was delivered by a Division Bench of this Court. However, as one of its members (viz. Mr. Justice Muhammad Shafi Siddiqui), has since been elevated to the Supreme Court, the Review Application has been placed before me in accordance with the Office Note and the order dated 4.3.2025, issued by the Honourable Acting Chief Justice.
- Upon query, learned Counsel for Appellant submitted that although no appeal has been preferred against the Appellate Judgment before the Supreme Court to date, the mere availability of an appellate remedy does not, by itself, preclude the filing of a review. He further stated that the decision to assail the Appellate Judgment through the Review Application was a considered one, as the Judgment is alleged to suffer from an “*error apparent on the face of the record*” which may validly be corrected by invoking the jurisdiction conferred under Order 47 Rule 1 CPC.

4. Briefly stated, the Appellant was initially dismissed from service by letter dated 12.9.1997, which, upon his request, was subsequently converted into compulsory retirement with effect from the same date. This was done pursuant to the Appellant’s undertaking/affidavit dated 15.8.2007 (**Court File Pg. 151, Annex A-12**), that he would not claim any back benefits, payments, or retirement entitlements from Respondent No.1 Bank. Thereafter, the Appellant received a dues settlement letter dated 21.11.2016, which he claims to have received on 23.11.2016, and with which he expressed disagreement regarding the amount paid. Consequently, he instituted the Underlying Suit on 3.12.2019 (inter alia, for recovery of money), the Plaint of which was rejected as being time barred by the Single Judge – an order that was subsequently upheld through the Appellate Judgment.
5. From a perusal of the Review Application and consideration of the arguments advanced by the Appellant’s Counsel, the principal thrust of the Appellant’s case for review is that the Appellate Court erred in upholding the order of the Single Judge, whereby the Appellant’s Plaint was rejected as being time-barred under Article 64¹ of the *Limitation Act, 1908*. It is contended that, following receipt of the dues settlement letter dated 21.11.2016 (**Court File Pg. 159, Annex A-16**), the Appellant addressed a letter dated 5.1.2017 (**Court File Pg. 161, Annex A-17**) to the Respondent No.1, to which no response was ever received. Counsel submits that the cause of action accrued to the Appellant on the date of the said letter, and that if the three-year limitation period prescribed under Article 64 is computed from 5.1.2017, the Underlying Suit – filed on 3.12.2019 – would fall within time. It is argued that the oversight and failure to consider this position constitutes an error apparent on the face of the record. To substantiate this contention, Counsel placed reliance on 1999 SCMR 255 (*Muhammad Ahmed v. Government of Sindh*), PLD 1992 SC 825 (*Muhammad Masihuzzaman v. Federation of Pakistan*) and 2014 PLC (CS) 247 [IHC] (*Rakhshinda Habib v. Federation of Pakistan*).

¹ Article 64 of Limitation Act, 1908:

Description Of Suit	Period of Limitation	Time From Which Period Begins To Run
64. For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Three years	When the accounts are stated in writing signed by the defendant or his agent duly authorized in this behalf, unless where the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives.

6. In opposition, learned Counsel for Respondent No.1 has objected to the Review Application arguing that it exceeds the scope of Order 47 Rule 1 CPC and has called for its dismissal. He contends that, out of compassion, Respondent No.1 converted the Appellant's dismissal from service into compulsory retirement after 9 years. Despite the Appellant's written undertaking/affidavit not to claim any payments or benefits from Respondent No.1, he has acted contrary to this commitment and continues to subject the Respondent No.1 to prolonged and ongoing litigation.
7. I have taken into account the submissions of respective Counsel and gone through the record.
8. To put it mildly, the argument presented by the Appellant's Counsel is fallacious. If the starting point of the limitation period were to commence from the date of issuance of the Appellant's own letter, as suggested, it would lead to an untenable and illogical outcome. By such reasoning, the accrual of limitation would be entirely at the discretion and mercy of the claimant (Appellant in this case). This would create an anomalous situation where the limitation period may never begin to run, or could be arbitrarily delayed – potentially by years or even decades in an extreme scenario – simply by the claimant choosing not to issue such a letter. Such an interpretation would not only defeat the very object and purpose of limitation law, which is to bring finality to litigation and prevent stale claims, but would also undermine the certainty and predictability essential to legal proceedings, opening the door to potential abuse. When confronted with this implication, Counsel for the Appellant was unable to provide any adequate or legally tenable response. Consequently, this line of argument is found to be without substance and cannot be sustained. In the same vein, the case law cited by the Appellant is wholly irrelevant to the present arguments.
9. In any case, this argument falls outside the permissible scope of these proceedings, as it exceeds the boundaries set by Order 47 Rule 1 CPC. The Review Application can only be entertained on the basis of an error that is evident on the face of the record – an error so clear that it does not require detailed analysis. Review proceedings are strictly limited to this narrow framework and cannot be used as a substitute for an appeal. Any error that is not self-evident or requires extensive reasoning to identify cannot be considered “apparent” and, therefore, does not warrant a review under Order 47 Rule 1 CPC. This established legal position has been consistently reiterated by this Court in the cases of **Forte Pakistan (Pvt) Limited v. Azam Khan** (2017 MLD 1049); **Masroor Ahmed Zai v. Province of Sindh** (2016 CLC 1861); **Doda Begum v. Israr Hussain Zaidi** (2014 CLC 1407);

Inam Ahmad Osmani v. Federation of Pakistan (2013 MLD 1132) and **Shiraz Arshad v. VIIIth Civil & Family Judge** (2009 YLR 1016).

10. In light of the above, this Review Application (CMA No.1353/2024) is without merit and is accordingly **dismissed**. No costs are imposed.

JUDGE

Karachi

Dated: 14th April, 2025