JUDGMENT SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Before:
Mr. Justice Omar Sial
Mr. Justice Muhammad Humayon Khan

1st Appeal No.D-40 of 2014
a/w R.A. No. 122 of 2015

APPELLANTS/ APPLICANTS	:	Province of Sindh and others through Mr. Allah Bachayo Soomro, Additional Advocate General Sindh
RESPONDENTS	:	Inayatullah Memon and 3 others through Mr. Aamir Ali Memon, Advocate.
DATE OF HEARING	:	10.11.2026
DATE OF JUDGMENT	:	17.11.2026

JUDGMENT

Muhammad Humayon Khan, J.: We have before us two connected matters, namely an appeal under s. 54 of the Land Acquisition Act, 1894 ("1894 Act") challenging the Order dated 15.03.2014 passed by the learned Additional District Judge, Tando Muhammad Khan in Land Acquisition Reference No. 01 of 2012 and a revision application under s. 115 of the CPC arising out of an interlocutory order in resulting execution proceedings.

2. Heard. Perused. At the outset, we may note that the first appeal in this matter was improperly drafted in that the facts and chronological history of the case has not been pleaded correctly. In any case, the learned Additional Advocate General Sindh confirmed during arguments that the appeal was being made against the Order dated 15.03.2014 at Annexure-A (pp. 19 to 25) of the case file. Before touching the merits of the case, we noted that the impugned Order in the first appeal was passed on 15.03.2014 whereas the first appeal was filed before this Court on 05.12.2014. Under Art. 156 of the Limitation Act, 1908, the period of limitation is prescribed as follows:

Description of Appeal	Period of limitation	Time from which period begins to run.
156. – Under the Code of Civil Procedure, 1908 (V of 1908), to a High Court, except in the	Ninety days	The date of the decree or order appealed

cases provided for by article 151 and article 153.		from.

It will be seen that the period of ninety (90) days from the date of the impugned Order dated 15.03.2014 ended on 13.06.2014, whereas the appeal was instituted after exactly 265 days on 05.12.2014. Consequently, the appeal on the face of it is time-barred by 175 days. (For completeness of the record, we may note that it has been held in a number of cases, including *Cholistan Cooperative Wool Development Marketing Union Ltd, Bahawalpur v Bashir Ahmad and another* 1983 SCMR 1105 and *The Province of Punjab through Secretary, Sports and Youth Affairs Department Lahore and 2 others v Sabir Ali and 8 others* 2026 YLR 178 (Lahore), that Art. 156 of the Limitation Act applies to appeals under s. 54 of the 1894 Act.)

3. The Appellants have filed an application under s. 5 of the Limitation Act, 1908, being C.M.A. No. 1593 of 2014 seeking condonation of the delay of 175 days. The application is supported by an affidavit in which the following explanation for the delay has been put forward in para 3:

> "That the appellants came to know about the impugned order when Execution Application was filed by respondents. It seems that the respondents deliberately tried to conceal the facts from the Government of Sindh/Drainage Department in collusion with counsels appearing for appellants before the learned Additional District Judge Tando Muhammad Khan, in order to loose the time regarding limitation, in order to challenge the impugned order, though the order is void and requires no limitation in challenging of void orders, as such the appeal in time.
>
> Moreover, the delay if any is not wilful and deliberate but due the concealment of order passed by the learned Additional District Judge by the law officer for the best reasons known to them and so also the department."

4. In our respectful view, the reasons advanced at the bar for the condonation of the delay are entirely unsupported, vague and based upon conjectures and surmises and cannot be taken by us as "sufficient cause" for purposes of s. 5 of the Limitation Act, 1908. First of all, the argument that the impugned Order dated 15.03.2014 is void and therefore no limitation applies against it is based upon a misinterpretation of the law of limitation. In *Gen. (R) Pervez Musharraf v Nadeem Ahmed (Advocate) and another* PLD 2014 SC

585, fourteen judges of the Supreme Court decided as follows (para 19):

> "The contention that the delay be condoned since the petitioner was not heard or that the judgment on that count is void ab initio and that no limitation runs against a void order is not tenable because even against a void order, limitation would run and would be computed from the date of knowledge…"

5. Accordingly, even if we were to accept the argument of the Appellants at face value and treat the impugned Order as void *ab initio*, limitation would have to be counted from the date of knowledge of the Appellants. However, the Appellants have failed to plead a specific date of knowledge and have instead pleaded that they came to know about the Order when execution proceedings were instituted. This is a vague statement as we are unable to ascertain the specific point in the proceedings when the Appellants acquired knowledge of the Order. It was the duty of the Appellants to have justified their delay of each and every day by pleading specific details and upon their failure in doing so the Court cannot be made to gather or assume information. In *Muhammad Sharif v MCB Bank Limited and others* 2021 SCMR 1158, the Supreme Court held that date of knowledge must be explicitly pleaded. Similarly, in *Muhammad Raz Khan v Government of NWFP* PLD 1997 SC 397 (also relied on by the full Supreme Court in *Gen. (R) Pervez Musharraf*), it has been held that the date of knowledge must be independently established on a sound basis. We are likewise unable to accept the explanation that the Respondents, their counsel and the law officers appearing for the Appellants alike had joined together to conceal the impugned Order from the Appellants. This allegation has been pleaded in thin air and in our view, it is unbelievable and absurd without any supporting material. They have failed to place on record any proceedings against such officers, if any were initiated against the allegations made by the Appellants. Consequently, neither the specific date of knowledge nor the source of information have been established by the Appellants.

6. It is settled law that a party seeking condonation of delay under s. 5 of the Limitation Act is bound to explain the delay of each and every day: *Sindh Irrigation and Drainage Authority v Province of Sindh and another* 2026 SCMR 190. It is also settled law that

limitation is not a mere technicality but rather mandatory and in fact the foundation of the law itself, and, once limitation expires, vested rights are created in the other party: *Muhammad Faisal Prop., F.A. Traders, Lahore v Commissioner Inland Revenue, Zone-II, RTO-II, Lahore* 2025 SCMR 930 and *Chief Executive Officer NPGCL, GENCO-III, TPS Muzafargarrah v Khalid Umar Tariq Imran and others* 2024 SCMR 518. Under s. 3 of the Limitation Act, the Court is duty bound to dismiss every suit, appeal or application made after the prescribed period of limitation, whereas under s. 5 delay is only to be condoned where the applicant satisfies the Court that there was "sufficient cause" for the delay. In view of the strict principles relating to the law of limitation, we are of the view that limitation cannot be taken lightly and delay cannot be condoned by lightly terming an order or judgment as "void" or "without jurisdiction." The party attaching such weighty connotations to judicial orders must explicitly and unambiguously explain their reasons to the satisfaction of the Court. It is unfortunate that the Appellants have resorted to absurd explanations for the delay to the point that they have not spared their own law officers and department without any supporting material. It is already well-established that the government is not entitled to any preferential treatment with respect to limitation and it is on the same footing as any ordinary litigant: *Province of Sindh through Land Acquisition Officer v Abdul Tawab and others* PLD 2026 SC 113 and *Town Administration and another v Mohammad Khalid and others* 2024 SCMR 1852. To our minds, the Appellants have displayed gross negligence and laxity and their conduct in the present litigation is inexcusable.

7. We have also gone through R.A. No. 122 of 2015 which is against an Order dated 16.05.2015 passed by the learned Additional District Judge on an application under r. 10 of O. I of the CPC. The said application was with respect to the impleadment of the Province of Sindh and others as parties in the execution application resulting from the reference contending that they were not impleaded. Since the main appeal has already been decided as not maintainable and time-barred, this revision application has been rendered infructuous. In any event, the Order dated 16.05.2015 was passed by the Executing Court upon the Order dated 15.03.2014 finally disposing of the reference. Accordingly, the learned Additional District Judge as Executing Court was perfectly correct in confining the execution

proceedings to the parties impleaded in the final Order dated 15.03.2014 (which is wrongly termed as an "Order" and is for all purposes and intents an Award of the Referee Court under the 1894 Act and therefore a Decree by legal fiction under s. 26(2) of the 1894 Act for the same purposes). It is by now well-settled that the executing court cannot go beyond the decree. Therefore, no error warranting interference in revision has been pointed out to us.

8. For these reasons:

i) The application under s. 5 of the Limitation Act, being C.M.A. No. 1593 of 2014, is dismissed. The delay of 175 days in instituting First Appeal No.D-40 of 2014 is not condoned.

ii) It follows that First Appeal No.D-40 of 2014 being time-barred is not maintainable and is also dismissed. R.A. No. 122 of 2015 has become infructuous and is disposed of. There shall be no order as to costs.

iii) Office is directed to prepare a decree in compliance of s. 54 of the 1894 Act in these terms.

JUDGE

JUDGE

Approved for reporting

Muhammad Danish