

Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

R.A. No.S-163 of 2013

| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
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For hearing of main case.

18-05-2026

Mr. Faiz Ahmed Chandio, advocate holds brief for Mr. Ishrat Ali Lohar, advocate for the applicant.

Mr. Abdul Aziz Palli, advocate holds brief for Mr. Imdad Ali R. Unar, advocate for respondent No.8.

Mr. Wali Muhammad Jamari, Assistant Advocate General.

Applicant Muhammad Haneef filed FC Suit No. 188 of 2009, which was dismissed on 24.12.2012 based on an application filed by the official respondent challenging the maintainability of the said FC Suit. Thereafter, the appellant preferred an appeal before the Additional District Judge-V, Hyderabad, namely Civil Appeal No. 29 of 2013. The relevant extract of the order passed by the appellate forum is reproduced as under:

"It appears that the impugned order is passed on [24]14-12-2012. It further appears that the appellant applied for certified true copies of impugned order on 09-01-2013 and the cost is paid on 22-01-2013 and the appeal is filed on 11-02-2013. If the time is calculate the appellant applied for certified true copies after 16 days and then he deposited the cost after 12 days after applying of Certified true copies and copies supplied on 30-01-2013. Thus it appears that the period of about 28 days deductable and after delivery of appeal on 30-01-2013. The appellant had only two days for filing this appeal which filed with the delay of 10 days and no explanation is put forwarded by the appellant for filing of appeal with delay of 20 days despite fact that according to the Article 113 of Limitation Act, 30 days is provided for filing of appeal.

In view of above discussion I find that the appeal is hopelessly time barred as such the same is stands dismissed with no order as to costs."

Aggrieved by the impugned order the appellant has preferred this Revision Application.

None has been present on behalf of the applicant. On the last several dates of hearing, various advocates have held his brief. Counsel holding brief has submitted a Statement dated 18.05.2026 signed by the advocate for applicant which is taken on record and copy supplied to other side. Additionally, counsel holding brief has submitted judgments of Supreme Court reported as *1992 SCMR 1828 (Abdul Murad Khan versus Mst. Noshaba and 9 others)*, *2000 SCMR 354 (Nooruddin and 3 others versus Pakistan through the Secretary, Ministry of Communication, Government of Pakistan and 3 others)* and *a judgment passed by single bench of this High Court reported as 2009 CLD 1367 (Habib Bank Ltd. through Authorized Attorneys versus Messrs Wisdom Education System (Pvt.) Ltd. and 6 others)*.

I have perused the memo of revision application and the grounds stated therein. No explanation has been provided to meet the challenge of observations made by the appellate Court in the impugned order. The applicant has submitted in the memo of revision that although the order he had impugned in his appeal was passed on 24.12.2012, the winter holidays had commenced the following day from 25.12.2012 to 04.01.2013. Therefore, when the applicant applied for certified true copies of the impugned order on 09.01.2013 five days after the court's winter holidays, the appeal filed on 11.02.2013, was still within time.

As per the record available, the application for obtaining certified copy was filed by the applicant on 09.01.2013, i.e. 16 days after the announcement of judgment dated 24.12.2012. On 09.01.2013, 16 days' time had lapsed out of 30 days' time to file an appeal. When an application is filed in Court, the period of limitation stops running during such period as the office takes its time to assess costs. In the present case, costs were assessed by office on 22.01.2013. Thus the period of limitation paused from 09.01.2013 to 22.01.2013, and once again re-commenced running once the office determined costs on 22.01.2013. These costs were paid by the applicant on 29.01.2013. During this period i.e. 22.01.2013 to 29.01.2013 the clock kept ticking. Thus another 07 days' time elapsed during such period, meaning that a total of 23 days' time (16 + 7) out of 30 days had lapsed as of 29.01.2013. The

time stopped, once again, when the copying branch after receipt of costs took time to prepare certified copy which was made ready on 29.01.2013. The applicant did not take delivery of the copy on 29.01.2013, which meant that another day was lost notwithstanding that after preparation of the certified true copy, the requisite notice under Rule 33 of Chapter-IV Part-A of Subordinate Establishments of the Federal Capital and Sindh Courts Criminal Circular, showing the copy ready for delivery, is to be posted on the notice board of trial Court. Be that as it may, as of 30.01.2013 when the appellant received copy on the following day, i.e. on 30.01.2013 now 24 days' time had lapsed out of 30 days' time to file an appeal. Yet the appellant did not lodge the appeal in Court within the six days' time limit left for it to file the appeal in Court, i.e. by on/or before 05.02.2013. Instead the appellant filed C.A. No.29/2013 in Court on Monday 11.02.2013 – beyond the period of limitation. The appeal filed was now barred by time.

Unfortunately the timeline submitted by the applicant, viz. the Statement submitted today through counsel holding brief, cannot come to the rescue of the applicant. Every day of delay was required to be explained to the appellate forum but no application seeking condonation of delay was filed by the applicant. The winter holidays did not come in the way stopping the running of the period of limitation. The holiday period cannot be excluded. The judgments relied upon by the counsel holding brief are not relevant to the case in hand. Further, the background of this case is completely different from the authorities relied upon by the applicant. In my view, the more relevant authority is *Pak Leather Crafts Limited and others versus Al-Baraka Bank Pakistan Limited*, 2022 SCMR 1868, which approved the division bench's judgment dated 19.10.2018 passed by this (High) Court in *I.A. No.15 of 2018 (Pak Leather Crafts Limited and others versus Al-Baraka Bank Limited)*. The provisions of Section 4 of the Limitation Act, 1908 are applicable to the filing of suits and where the period of limitation expires during vacations the claimants/plaintiffs may well be saved from the bar of limitation on filing their claims/suits if done so on the first opening day of the Court subject to meeting certain pre-conditions one of which condition includes the time spent in obtaining certified copy.

In the circumstances, I do not find any reason to interfere with the impugned order although the calculation may be off/incorrect the appeal filed was still time barred. Accordingly, this Revision Application stands dismissed in the above terms.

J U D G E

Irfan Ali