

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Constitutional Petition No. S-225 of 2025

Date	Order with signature of Judge
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Hearing/priority

- 1. For order on office objections
- 2. For order on CMA No.2010/2025
- 3. For hearing of CMA No. 2011/2025
- 4. For hearing of main case

**03.12.2025**

Mr. Aswad Ali Chohan, advocate for the petitioner  
Mr. Tayyabur Rehman Durrani, advocate for respondents  
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Through this petition, the petitioner has called in question the order dated 28.02.2025 passed by learned VIIth Additional District Judge Karachi South in Family Appeal No.35 of 2025 (Khalid Baloch versus Mst. Habiba & others), whereby, the appeal was dismissed on the ground that the same was filed with delay.

Learned counsel for the petitioner submits that the trial Court had held the exparte proceedings against the petitioner and decreed the suit of the respondents vide judgment and decree dated 07.11.2024. He contends that the petitioner was residing in UAE and was not aware about impugned judgment and decree and prays that the judgments of the Courts below may be set aside and the trial Court may be directed to proceed with the matter on merits.

Learned counsel for the respondents contends that in Family Suit No.2544 of 2023, notices were issued against the petitioner which were served upon the petitioner who appeared and filed written statement but later on chose to remain absent, therefore, exparte proceedings were initiated and on the basis of evidence adduced by the respondent, the Family Suit was decreed. Learned counsel contends that there is no ground available with the petitioner seeking condonation of delay in filing of the appeal.

Heard the learned counsel for the parties and perused the material available on record. Admittedly, the petitioner was served, pursuant thereto appeared before the Trial Court through his attorney on 02.05.2024 and filed written statement. Thereafter, the reconciliation was made for settlement which too failed. The petitioner was granted ample opportunities by the trial Court to cross-examine plaintiff but he failed. Thus, evidence of the plaintiff's side was closed vide order dated 26.09.2024. Thereafter, the matter was fixed for evidence of the petitioner's side which too was closed on 25.10.2024 as none turned up.

From the perusal of the record, it transpires that the petitioner was well aware of filing of family suit and he deliberately remained absent as such the trial Court passed the judgment and decree based upon the evidence adduced by the respondent. The judgment and decree of trial Court were assailed after delay of 70 days whereas

under Rule 22 of the Family Court Rules, 1965, 30 days' time is provided for filing the appeal. In appeal, no cogent reason was assigned for absence of the petitioner before trial Court. No doubt the limitation is not a hard and fast rule to deny right of a party but it is also a settled law that a party should remain vigilant and since this is a family matter involving maintenance of the children which the petitioner is liable to pay under the law, therefore, consideration of delay requires cogent reason and concrete ground so that the delay in filing the appeal could have been condoned. In case the party seeks condonation in delay which is not available under the law, the party is required to furnish proof for his absence from proceedings to which learned counsel for the petitioner was confronted for any evidence to show that the petitioner remained absent for the reason beyond his control, which learned counsel failed to produce.

For the reasons discussed above, I find no infirmity or illegally in the judgments of the Courts below calling for interference. Accordingly, this petition is dismissed with no order as to costs.

JUDGE

Ashraf