

Civil Revision Application No.81 of 2012

Present: Mr. Justice Nazar Akbar

Versus

JUDGMENT

2. The brief facts of the case are that applicant filed two civil suits No.2149/1996 and 2456/1996 both for Declaration, Injunction and damages against the Respondents. Both the suits were consolidated by order dated **14.04.1992** and the learned trial Court after recording evidence and hearing learned counsel for the parties, dismissed both the suits by judgment dated **08.03.2010**. The applicant preferred Civil Appeal No.143/2010 against the said

judgment which was dismissed by the appellate Court by order dated **06.02.2012** as time barred and the appellate Court in para-4 and 5 of the impugned order has observed as follows:-

4. *I've anxiously gone through the above submission of the learned counsel for the appellant so also perused the available material in the perspective of relevant provisions of law. The record reflects that impugned judgment & decree passed on **08.03.2010 & 17.3.2010** respectively whereas instant appeal was presented on **29.4.2010** after considerable delay beyond prescribed as provided under Limitation Act, 1908 and the reasons so assigned by the appellants side in the affidavit appended with the application under Section 5 of the Act, cannot be said to be sufficient on the score that the certified copies of the impugned judgment & decree were delivered to the appellant on 30.3.2010. Under the law certain obligations are upon the parties to be vigilant towards their proceeding. More over, the ground so taken by the appellant appears to be un-justified for the reason that after having received the certified copies they waited 28 days and then moved caption appeal and admittedly there is no denial from the appellant side as to the provision of law which provides 30 days time limitation for filing of instant appeal. The case law so relied upon by the learned counsel for the appellant, with great respect to the observations of the Hon'ble apex Court made therein, same is not attracted to the case in hand, hence distinguishable.*
5. *In view of above circumstances, I find no merits in the application under Section 5 of Limitation Act, stands dismissed. Consequently, caption civil appeal bearing No.143/2010 is also dismissed in being fettered under Limitation Act. There is no order as to costs.*

3. In view of the above findings of the appellate Court, since the appeal preferred against the judgment and decree passed by the trial Court was clearly barred by 6 days, therefore, instant Revision Application is not maintainable and the same was dismissed by short order dated **13.03.2019** and these are the reasons for the same.

JUDGE