

IN THE HIGH COURT OF SINDH AT KARACHI

Civil Revision Application No.127 of 2019

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

Before: Mr. Justice Nazar Akbar

Applicant : Mst. Amber Umair Khan through
Attorney Umair Ahmed Khan.

Versus

Respondents : Yousuf Ali Khan & others (Nemo).

Date of hearing : **20.02.2020**

Date of Judgment : **28.02.2020**

JUDGEMENT

NAZAR AKBAR, J. This Revision Application is directed against the order dated **18.10.2019** whereby Civil Misc. Appeal **No.09 of 2019** filed by the applicant was dismissed by the VIth Addl. District Judge, Central Karachi and the order dated **19.03.2019** passed on application under **Order IX Rule 9 CPC** in Civil Suit **No.562/2014** by VIth Senior Civil Judge, Karachi Central was maintained.

2. Briefly stated the facts of the case are that applicant filed Suit **No.562/2014** for declaration, cancellation of gift deed, administration and partition. Thereafter on **04.8.2018** the applicant moved an application for under **Order 23 Rule 3 CPC** for withdrawal of the suit and on **16.08.2018** suit was dismissed as withdrawn. It appears that subsequently applicant filed application under **Order IX Rule 9 CPC** after period of more than four months for restoration of suit, which was also dismissed by order dated **19.3.2019**, therefore, applicant filed Civil Misc. Appeal which was also dismissed being time barred by order dated **18.10.2019**. The applicant has

challenged the said order of appellate Court here in this Revision Application.

3. I have perused the record as well as written arguments filed on behalf of the applicant.

4. It is contended by applicant that the impugned orders passed by the two Courts below are illegal, unlawful, unwarranted, flimsy, fanciful, whimsical, capricious as well as bad in law as such are not sustainable and liable to be set aside being null & void ab-initio. He further contended that the impugned orders were passed without hearing the parties and against the principle of natural justice. The perusal of record shows that the trial Court has rightly dismissed an application under **Order IX Rule 9 CPC** for restoration of suit which was withdrawn by the plaintiff. Therefore, even if appeal could have been filed in time, it could have no merit. Be that as it may, once delay has occasioned in filing of an appeal, the appellant is required to explain delay of each day for condonation of time for filing the appeal.

5. The appeal preferred by the applicant was hopelessly time barred. Learned Appellate Court has comprehensively dealt with the question of limitation and could not find justification for entertaining time barred appeal even in the application for condonation of delay no justifiable ground was mentioned at all. Therefore, impugned order cannot be interfered by this Court.

6. In view of the above, this revision application is dismissed alongwith listed applications.

Karachi
Dated:28.02.2020s
SM

JUDGE