

IN THE HIGH COURT OF SINDH AT KARACHI

**Civil Revision Application No.23 of 2019**

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DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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**Before: Mr. Justice Nazar Akbar**

Applicant : Abdul Subhan (late) through Mst. Shakila Bi,  
Through Mr. Pervaiz Iqbal Butt, advocate.

**Versus**

Respondent No.1 : Mrs. Tehmina Ejaz.  
Respondent No.2 : The Sub-Registrar-II Gulshan-e-Iqbal  
Karachi.  
Respondent No.3 : Xth Senior Civil Judge Karachi East.  
Respondent No.4 : Xth Addl. District & Sessions Judge  
Karachi East.

Date of hearing : **11.02.2020**

Date of Judgment : **06.03.2020**

**JUDGEMENT**

**NAZAR AKBAR, J.** The Applicant through this revision application has challenged the Judgment dated **26.11.2018** passed by the Xth Additional District & Sessions Judge, East Karachi, whereby Civil Appeal **No.247/2017** filed by the applicant was dismissed being time barred appeal and judgment dated **30.05.2017** passed by the Xth Civil Judge Karachi East dismissing the Civil Suit **No.393/2016** filed by the Applicant was maintained.

2. The trial Court in exparte proceeding of suit for specific performance of contract dated **03.12.2014**, after hearing the learned counsel for the applicant/plaintiff dismissed the suit by order dated **30.05.2017**, in the following terms:-

“It is a responsibility of the plaintiff to satisfy the Court when seeks the remedy but plaintiff has failed to establish her case by not producing any authentic or reliable documents before the

Court, in support of his case. In forming this opinion, I am motivated by the dictum laid down in case law reported in [2016 YLR 890 Karachi], cru is reproduced here under:-

“Courts had to confine to what was produced before it but judicial propriety always expect courts to react as a breathing one with active judicial conscious.....Judicial conscious always demand to properly respond to cryptic pleadings and should never let itself to be a tool to allow parties to achieve indirectly what they could not achieve directly ...Courts should not grant a decree in a mechanical manner nor courts be deceived from subsequent steps of parties whether it be in name of compromise or even ex-parte but legal character, maintainability of suit and entitlement of parties were requirements which court should always keep in mind while recording a decree”.

In view of above stated position, I feel no hesitation to say that the suit of the plaintiff is merit-less, hence the same is hereby dismissed with no order as to costs.

The Applicant against the said exparte judgment of the trial Court civil appeal **No.247/2017** was filed on 07.11.2017 with an application under **Section 5** of Limitation Act, after almost four months and seven days. The appeal was dismissed being time barred appeal by order dated **26.11.2018** by the appellate Court. The Applicant has impugned the said judgment of the appellate Court here in this Revision Application.

3. I have heard learned counsel for the Applicant and perused the record.

4. 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 to condone four months

delay. In fact an statutory right has been developed in favour of the respondent which cannot be taken away lightly. Therefore, impugned order cannot be interfered by this Court.

5. In view of the above facts and discussion no case is made out for interference in the impugned judgments. Therefore, instant revision application is dismissed alongwith listed applications

JUDGE

Karachi  
Dated;06.03.2020

SM