

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No.293/2020

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

Before: Mr. Justice Nazar Akbar

Petitioner: Rizwan Ahmed Shah through
Mr. Fareed Hussains, Advocate.

Versus

Respondent No.1: VIIth Addl. District Judge, Karachi
South.

Respondent No.2: XIXth Family Judge, Karachi South.

Respondent No.3: Mst. Asfarah Khan

Date of hearing: **28.02.2020**

Date of Judgment : **28.02.2020**

JUDGMENT

NAZAR AKBAR, J. The petitioner through this constitutional petition has challenged the order dated **10.02.2020** passed by VIIth (MCAC) Addl. District Judge, South Karachi in Family Appeal **No.18/2020** whereby judgment of the trial Court passed in Family Suit **No.1701/2018** dated **14.01.2019** by XIXth Family / Civil Judge South Karachi, was maintained/upheld.

2. Briefly stated the facts of the case are that Respondent No.3 filed Family Suit **No.1701/2018** for dissolution of marriage, maintenance and dowry articles against the petitioner in the Family Court, which was decreed ex parte by order dated **14.01.2019**, thereafter, petitioner filed an application under Section **12(2) r/w Section 151 CPC** whereby he prayed for setting aside the ex-parte judgment and decree dated **14.01.2019**. The learned Trial Court by order dated **06.01.2020** dismissed the application Under **Section**

12(2) CPC r/w Section 151 CPC. The petitioner/appellant then filed Family appeal No.18/2020 against the judgment and decree dated 14.01.2019 with an application under **Section 5** of Limitation Act, after almost one year, which was also dismissed being time barred appeal by order dated **10.2.2020** by the appellate Courts.

2. I have heard the learned counsel for the petitioner and perused the record.

3. It is contended by the learned counsel for the petitioner 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 is not sustainable and liable to be set aside being null & void ab-initio.

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. Therefore, impugned order cannot be interfered by this Court.

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

JUDGE

SM