

**IN THE HIGH COURT OF SINDH, AT
KARACHI.**

F.R.A. No. 20 of 2015

Appellant : Muzaffar Ali, through Mr. Hakim Ali
Khan, Advocate.

Respondent No.1 : Shakil Ahmed Khan & Others, Nemo
.

Date of hearing : 06-04-2017.

Date of Judgment :

J U D G M E N T

YOUSUF ALI SAYEED, J:- In terms of this First Rent Appeal under S. 24 of the Cantonment Rent Restriction Act 1963 (the “**Subject Act**”), the Appellant has impugned the Orders made on 12.08.2010, 05.10.2010 and 11.11.2013 (hereinafter collectively referred to as (the “**Impugned Orders**”) by the learned Additional Controller of Rents, Clifton Cantonment, Karachi in Rent Case No.10/2010 (the “**Rent Case**”).

2. The FRA was presented on 18.03.2015, and learned counsel for the Appellant was directed at the outset vide the very first Order made on 14.04.2015 to satisfy this Court as to how the same was maintainable. Thereafter, the matter was adjourned on various dates, when time was sought was sought by learned counsel, until finally coming up before me for hearing on this preliminary aspect.

3. From a combined reading of the FRA as well as the Application filed under S.5 of the Limitation Act, it appears that the Appellant has sought to explain the delay in filing the FRA on the basis that he received and relied upon wrong advice from previous counsel, due to which he did not file an appeal, but proceeded to contest and resist the execution proceedings ensuing from the Rent Case on the basis of his claim that he had purchased the rented premises from a stranger to the Rent Case, who according to him was the owner thereof, and his claim was the subject of a suit for specific performance bearing Suit Number 613 of 2011 pending adjudication before this Court on the Original Side. It has been pleaded that the FRA was filed when the necessity thereof became apparent during the course of proceedings before the executing Court.

4. Having considered the matter, I am of the opinion that the delay in filing the FRA cannot be condoned in as much as the provisions of the Limitation Act, including S.5 thereof, are inapplicable to such proceedings, as held in the case reported as Rafiq Ali v. Kalim Zia Khawaja and another 2000 CLC 1997. Even otherwise, the ground raised by the Appellant does not constitute sufficient cause for condonation, and even if such a plea could be entertained, it also merits consideration that no affidavit of the counsel has been filed, nor indeed has the identity of such counsel even been disclosed. The Judgments of the Honourable Supreme Court in the cases reported as Muhammad Tufail Danish v. Deputy Director, FIA and another 1991 SCMR 1841, and Muhammad Manzoor v. Ghulam Murtaza 1994 SCMR 987 are ample authority on this point.

5. In view of the foregoing, I am of the opinion that the FRA is not maintainable, and hence is dismissed accordingly.

JUDGE

Karachi.

Dated:_____