

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Miscellaneous Appeal No. 70 of 2021

Date	Order with Signature of Judge
------	-------------------------------

1. For orders on CMA No.5262/2021 (Urgency) :
2. For orders on CMA No.5263/2021 (Limitation) :
3. For orders on CMA No.5264/2021 (Exemption) :
4. For hearing of main case :

25.10.2021 :

Syed Sharjeel Hassan, advocate for the appellant.

NADEEM AKHTAR, J. – Vide impugned order dated 15.09.2021 (page 17), S.M.A. No.528/2021 filed by the present appellant was dismissed by the learned IInd Additional District Judge Karachi Central as being not maintainable. Perusal of the impugned order shows that the application for obtaining its certified copy was filed by the appellant on 20.09.2021, cost for this purpose was deposited by him on the same day and the copy was delivered to him also on the same day. The present appeal was presented by him before this Court on 18.10.2021.

In the listed application under Section 5 of the Limitation Act, 1908, for condoning the delay of three days in filing the appeal, the appellant has stated in a vague manner that the appeal could not be filed by him within time as he was “*busy in some domestic issues*”. The delay of each day has not been explained by him. Thus, the delay in filing the appeal remains unexplained.

Learned counsel submits that the delay in filing the appeal was not deliberate or intentional as the appellant was out of city due to some domestic issues. He further submits that since there is a delay of only three (03) days, it may be condoned. I am afraid this contention cannot be accepted in view of *Imtiaz Ali V/S Atta Muhammad and another, PLD 2008 S.C. 462*, wherein it was held by the Hon’ble Supreme Court that the appeal, having been filed after one day of the period of limitation, had created valuable right in favour of the respondents, and no sufficient cause was found for filing the appeal beyond the period of limitation. The delay of only one day was not condoned by the Hon’ble Supreme Court in the cited case. Moreover, the reason disclosed by the appellant, being vague in

nature, cannot be accepted, especially when the delay of each day has not been explained.

In the above circumstances, the listed application for condoning the delay is dismissed and resultantly the appeal and other listed application are dismissed in limine with no order as to costs.

JUDGE