

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. S – 360 of 2021

Date	Order with signature of Judge
------	-------------------------------

1. For hearing of CMA No.2403/2021 (Stay) :
2. For hearing of main case :

25.10.2021 :

Mr. Ahsan Mahboob Saham, advocate for the petitioner.
Mr. Mehmood Habibullah, advocate for respondent No.1.

.....

NADEEM AKHTAR, J. – Rent Case No.482/2017 filed by respondent No.1 / landlord against the petitioner / tenant for his eviction on the grounds of personal need and default in payment of monthly rent was allowed by the learned Rent Controller vide order dated 18.12.2020 on both the aforesaid grounds. Vide impugned order dated 13.02.2021, F.R.A. No.18/2021 filed by the petitioner against his aforesaid order of eviction was dismissed by the learned District Judge Karachi East as being barred by limitation.

Record shows that the application for obtaining the certified copy of the eviction order dated 18.12.2020 passed by the learned Rent Controller was filed by the petitioner on 18.12.2020 ; the cost for this purpose was estimated on 21.12.2020 which was deposited by him on 22.12.2020 ; the certified copy was delivered to him on 23.12.2020 ; and, the appeal was presented by him before the learned appellate Court on 02.02.2021. After calculating the time consumed in obtaining the certified copy, it was held by the learned appellate Court that the appeal filed by the petitioner was barred by fifteen (15) days. While dismissing the appeal, it was also held by the learned appellate Court that the delay in filing the appeal could not be condoned as the provisions of Section 5 of the Limitation Act, 1908, do not apply to the appeals filed under the Sindh Rented Premises Ordinance, 1979.

The dates noted above and the fact that the appeal filed by the petitioner was barred by limitation, are not disputed by his learned counsel. In Imtiaz Ali V/S Atta Muhammad and another, **PLD 2008 S.C. 462**, 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.

In the above circumstances, the impugned order does not suffer from any illegality or infirmity and as such does not require any interference by this Court. Accordingly, the petition and listed application are dismissed with no order as to costs.

J U D G E