

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Miscellaneous Appeal No. 04 of 2022

Date	Order with Signature of Judge
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For orders on CMA No.442/2022 (Urgency) :
For orders on CMA No.443/2022 (Limitation) :
For orders on CMA No.444/2022 (Exemption) :
For orders on CMA No.445/2022 (Stay) :
For hearing of main case :

27.01.2022 :

Ms. Marium Badar, advocate for the appellant.

NADEEM AKHTAR, J. – This appeal has been filed by the appellant against the order passed on 13.11.2021 by the learned trial Court viz. IIIrd Additional District Judge Karachi East, whereby the plaint of Suit No.10/2020 filed by her against respondent No.1 was rejected. Perusal of the impugned order shows that the application for obtaining its certified copy was filed by the appellant on 13.11.2021 ; the cost for this purpose was estimated on 17.11.2021 ; the said cost was deposited by her on 29.11.2021 ; and, the certified copy was delivered to her on 30.11.2021. The present appeal was presented by her before this Court on 08.01.2022.

In the listed application filed by the appellant under Section 5 of the Limitation Act, 1908, for condoning the delay in filing the appeal, she has stated in a vague manner that she was unable to file the appeal within the prescribed period of limitation due to unavoidable circumstances. However, the details of such unavoidable circumstances have not been disclosed in her application. Moreover, the number of days by which the appeal is barred has also not been disclosed in the application nor has the delay of each day been explained by the appellant. Thus, the delay in filing the present appeal remains unexplained.

Learned counsel submits that the delay in filing the appeal was not deliberate or intentional, therefore, 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 by her.

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

JUDGE