

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-2036 of 2021

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Amjad Ali Sahito

Ghufran Mehmood.....Petitioner

Versus

Zainab Riaz & others.....Respondents

05.04.2021

Mr. Asghar Bangash, Advocate for the Petitioner.

1. Urgency granted.
2. Exemption granted subject to all just exceptions.

3&4. **Muhammad Ali Mazhar, J:** The petitioner has challenged the order dated 11.02.2021 passed by respondent No.3 in Suit No.08/2020 filed under Section 26 of the Sindh Consumer Protection Act, 2014 for recovery of damages on account of defective product and faulty service. The learned counsel submits that the claim was time barred but the delay was condoned under Section 29 of the Sindh Consumer Protection Act, 2014. He further submits that the delay of each and every day was to be explained but nothing was done in this case while condoning the delay. We have seen the impugned order which was passed on the premise that the claimant was out of Pakistan. The learned trial court in paragraph 9 of the impugned order observed that the legal notice was issued on 07.01.2020 by the claimant which was never replied and the claim was filed on 05.03.2020 which according to the trial court was well within the statutory limitation of provisos to

Section 29 (4) of Sindh Consumer Protection Act, 2014. While condoning the delay, the learned trial court has further observed that in the case in hand the limitation is a mixed question of law and facts which may be agitated at the time of evidence. The purpose of establishing the Consumer Protection Courts is to effectively decide the complaints between the sellers/suppliers and the consumers/buyers and the law has been promulgated to provide for protection and promotion of the rights and interests of the consumers, speedy redress of consumer complaints and for matters connected therewith. Though the limitation has been condoned but even in that very impugned order the learned trial court itself observed that this is a mixed question of law and facts and this issue can also be agitated during the course of evidence. In case any adverse judgment is passed at final stage, that is too appealable and even in the appeal the question of limitation can be agitated, so at this stage it cannot be considered that the petitioner is non-suited or the defence taken by him was not considered. The learned counsel for the petitioner himself stated that the matter is fixed for recording of evidence of the claimant where the issue of limitation if any can be agitated as itself observed by the learned trial court. No interference is required to be made. The petition is dismissed in limine. A copy of this order may be transmitted to the learned trial court.

Judge

Judge