

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

II<sup>nd</sup> Appeal No. 191 of 2021

Date	Order with signature of Judge
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1. For order on office objection a/w reply as at 'A' :
2. For orders on CMA No.4419/2021 (Exemption) :
3. For orders on CMA No.4420/2021 (Stay) :
4. For orders on CMA No./2021 :

**01.10.2021 :**

Mr. Rakesh Kumar, advocate for the appellants.

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**NADEEM AKHTAR, J** . – Vide impugned judgment dated 09.07.2021, the appeal filed by the present appellants was dismissed by the learned appellate Court on the ground that the same was barred by limitation. Perusal of the judgment dated 09.10.2020 (page 25) and decree dated 14.10.2020 (page 41) passed by the learned trial Court shows that the application for obtaining certified copies thereof was filed by the appellants on 02.03.2021 i.e. long after expiration of the limitation prescribed for filing an appeal ; and, the appeal was presented before the learned appellate Court after more than six (06) months. In the above circumstances, the appellants were required not only to file an application before the learned appellate Court under Section 5 of the Limitation Act, 1908, for condoning the delay in filing the appeal, but also to explain therein the delay of each and every day. Admittedly no such application was filed by them, therefore, the long delay in filing the appeal remained unexplained before the learned appellate Court.

Learned counsel submits that the delay in filing the appeal was not deliberate or intentional as the appellants were not informed by their counsel about the judgment and decree passed by the trial Court, and as soon as they came to know about the same, they filed the appeal. He further submits that the above explanation was not appreciated by the learned appellate Court while dismissing the appeal. The above contention cannot be accepted as even in the above circumstances the appellants were required to file an application for condoning the delay by explaining the delay of each and every day, and in the absence of such application and explanation, the delay could not be condoned by the learned appellate Court *suo moto*. Moreover, it is well-settled that parties are responsible for the acts and/or omissions of their counsel and if any adverse order is passed as a consequence of such acts and/or omissions of the counsel, they shall have to face the consequences. In the above circumstances, the impugned judgment and decree of the learned appellate Court do not suffer from any illegality or infirmity. It is a matter of record that the present second appeal has been filed only against the judgment delivered by the learned appellate Court, and the decree drawn in pursuance thereof has not been filed. The present appeal is not maintainable on this ground also. Accordingly, the appeal and listed applications are dismissed in limine with no order as to costs.

J U D G E