

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

IInd No.143 of 2022

DATE

ORDER WITH SIGNATURE OF JUDGE

For orders on office objection  
For orders on C.M.A.499/2023  
For hearing of main case

31.10.2023

Mr. Abdul Hafeez Panhwar, advocate for appellants.

This *admittedly* time barred appeal assails Judgment dated 28.06.2022 and decree dated 30.06.2022 rendered by the Court of Additional District Judge-I Dadu in Civil Appeal No.137/2021.

It is demonstrated from the record that an application for a certified copy was not made to the Appellate Court until 03.08.2022, whereafter it was received the following day. The present appeal has been presented on 18.10.2022, hence, *admittedly* time barred by about 21 days.

CMA 499/2023 has been preferred seeking for the delay to be condoned. The only ground taken in the affidavit is that the delay was caused due to floods. Learned Counsel was asked to justify that if the certified copy had been applied for and received on 04.08.2022, being within the limitation period, then why was the appeal not presented until more than two months later. Learned Counsel remained unable to provide a cogent justification.

The law requires Courts to first determine whether the proceedings filed there before are within time and the Courts are mandated to conduct such an exercise regardless of whether or not an objection has been taken in such regard<sup>1</sup>. The Superior Courts have held that proceedings barred by even a day could be dismissed<sup>2</sup>; once time begins to run, it runs continuously<sup>3</sup>; a bar of limitation creates vested rights in favour of the other party<sup>4</sup>; if a matter was time barred then it is to be dismissed without touching upon merits<sup>5</sup>; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance<sup>6</sup>. In the present case the delay has not been adequately explained or justified, hence, no case for is made out to condone the delay, hence, CMA 499/2023 is hereby dismissed. As a consequence the present appeal is found to be time barred, therefore, dismissed *in limine*.

Judge

<sup>1</sup> *Awan Apparels (Private) Limited & Others vs. United Bank Limited & Others* reported as 2004 CLD 732.

<sup>2</sup> 2001 PLC 272; 2001 PLC 143; 2001 PLC 156; 2020 PLC 82.

<sup>3</sup> *Shafaatullah Qureshi vs. Pakistan* reported as PLD 2001 SC 142; *Khizar Hayat vs. Pakistan Railways* reported as 1993 PLC 106.

<sup>4</sup> *Dr. Anwar Ali Sahito vs. Pakistan* reported as 2002 PLC CS 526; *DPO vs. Punjab Labour Tribunal* reported as NLR 1987 Labour 212.

<sup>5</sup> *Muhammad Tufail Danish vs. Deputy Director FIA* reported as 1991 SCMR 1841; *Mirza Muhammad Saeed vs. Shahabudin* reported as PLD 1983 SC 385; *Ch Muhammad Sharif vs. Muhammad Ali Khan* reported as 1975 SCMR 259.

<sup>6</sup> *WAPDA vs. Aurangzeb* reported as 1988 SCMR 1354.