

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
R.A. No.361 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For order on CMA-3470/2023
2. For order on office objections
3. For order on CMA-3471/2023
4. For order on CMA-3472/2023
5. For order on CMA-3472/2023
6. For hearing of main case.

12-12-2023

Mr. Qadir Bux Lashari, advocate for applicant.

1. Urgency granted.

2to6. This is a prima facie time barred revision application; as the impugned judgment is dated 17.02.2023 and the present proceedings were preferred on 04.12.2023.

M.A. 3472 of 2023 has been filed under Section 5 of the Limitation Act, 1908 and the two grounds invoked are that the applicant's counsel did not inform the applicant of the impugned judgment in time and that since substantial rights are involved, the applicant may not be non-suited on the mere technicality of limitation.

Heard and perused. The delay in preferring the revision is admitted and the communication impasse with a counsel could not be sustained as a justification for the delay. The counsel was queried as to whether the applicant initiated any proceedings against the earlier counsel for alleged misfeasance and the response was provided in the negative. Respectfully, this Court finds itself unable to sustain the first ground to justify the delay.

In so far as the second ground is concerned, it is the considered opinion of the Court that the prescriptions of limitation are not mere technicalities and disregard thereof would render entire law of limitation otiose¹. The Superior Courts have consistently maintained that it is incumbent upon the Courts to first determine whether the proceedings filed there before were within time and the Courts are mandated to conduct such an exercise regardless of whether or not an objection has been taken in such regard². The Superior Courts have held that proceedings barred by even a day could be dismissed³; once time begins to run, it runs continuously⁴; a bar of limitation creates vested rights in favour of the other party⁵; if a matter was time barred then it is to be dismissed without touching upon merits⁶; and once limitation has lapsed

¹ *Mehmood Khan Mahar vs. Qamar Hussain Puri & Others* reported as 2019 MLD 249.

² *Awan Apparels (Private) Limited & Others vs. United Bank Limited & Others* reported as 2004 CLD 732.

³ 2001 PLC 272; 2001 PLC 143; 2001 PLC 156; 2020 PLC 82.

⁴ *Shafaatullah Qureshi vs. Pakistan* reported as PLD 2001 SC 142; *Khizar Hayat vs. Pakistan Railways* reported as 1993 PLC 106.

⁵ *Dr. Anwar Ali Sahito vs. Pakistan* reported as 2002 PLC CS 526; *DPO vs. Punjab Labour Tribunal* reported as NLR 1987 Labour 212.

⁶ *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.

the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance⁷. It has been maintained by the honorable Supreme Court⁸ that each day of delay had to be explained in an application seeking condoning of delay and that in the absence of such an explanation the said application was liable to be dismissed. It is pertinent to observe that the preponderant bar of limitation could not be dispelled by the appellant.

In the present case the delay has not been adequately explained or justified, hence, no case for is made out to condone the delay, therefore, M.A. 3472 of 2023 is hereby dismissed. As a consequence the present revision is found to be time barred, therefore, dismissed *in limine* along with listed applications.

Judge

Ahmed/Pa,

⁷ WAPDA vs. Aurangzeb reported as 1988 SCMR 1354.

⁸ Lt. Col. Nasir Malik vs. ADJ Lahore & Others reported as 2016 SCMR 1821; Qamar Jahan vs. United Liner Agencies reported as 2004 PLC 155.