

Order Sheet
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

R.A. No.219 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For orders on CMA 2318/2022
3. For orders on CMA 2319/2022
4. For orders on CMA 2320/2022
5. For hearing of main case

12.12.2023

Mr. Abdullah K. Laghari advocate for applicant.

This is a *prima facie* time barred revision, pending since 2022. Even notice had not been sought till date. Caution was recorded on last date of hearing due to absence of applicant's counsel, however, counsel is present today and is directed to argue CMA 2318/2022; being an application seeking for the delay to be condoned.

The judgment impugned is dated 14.04.2022 and the record demonstrates that the present revision has been filed on 07.09.2022. The revision is *prima facie* time barred. The affidavit in support of the application is devoid of a single ground for grant of the application and the memorandum itself simply states that the applicant was unable to contact the learned counsel. Respectfully, this Court finds itself unable to sustain this ground to justify the delay.

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 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

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.

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.

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, CMA 2318/2022 is hereby dismissed. As a consequence the present revision is found to be time barred, therefore, dismissed *in limine* along with listed applications.

Judge

Ali Haider