

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
R.A. No.310 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For order on CMA-629/2018
2. For order on CMA-631/2018
3. For hearing of main case.

19-12-2023

Mrs. Razia Ali Zaman Khan, advocate for applicant.
Mr. Muhammad Akleem Shaikh, advocate for respondents
No.2to5.
Mr. Shamsuddin Rajper, D.A.G.

1. The impugned judgment was rendered on 20.07.2017 and the present Revision was preferred on 19.12.2017. Per respondents' learned counsel, this Revision is barred by 61 days delay, hence, the applicant has filed this application under Section 5 of the Limitation Act, 1908.

The ground pleaded by the applicant's counsel is stated to be that a previous counsel had not provided the requisite information to the applicant and further that unless the application is granted it would be highly unjust to sacrifice the demand of justice at the altar of technicalities.

Heard and perused. The delay in preferring the revision is admitted and a bald unsubstantiated statement that the applicant that "*a previous counsel had not provided the requisite information*" could not be sustained as a justification for each day of delay. Moreover, since no remedial action appears to have been initiated in respect of the alleged misfeasance.

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 the door of adjudication is closed irrespective of pleas of hardship,

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.

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 appellants' counsel.

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, the application seeking for the delay to be condoned is hereby dismissed.

2 & 3. As a consequence the present revision is found to be time barred, therefore, dismissed along with listed application.

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.