

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.923 of 2015

Date	Order with signature of Judge(s)
------	----------------------------------

1. For orders on maintainability of suit.
2. For hearing of CMA No.14407/2016.
3. For hearing of CMA No.7621/2022.

15.10.2024

Syed Muhammad Haider, advocate for the plaintiff.
Shaikh Ikram Aziz, advocate for the defendant No.1.
Mr. Amir Saleem, advocate for the defendant No.7.

This suit was filed for declaration, cancellation, permanent injunction etc. on 23.05.2015. Essentially, the plaintiff seeks to have an indenture of lease, executed and registered on 31.08.2004, struck down. However, this suit was instituted beyond the pale of limitation.

Objection in such regard was raised on the very first date of hearing herein, being 08.06.2015, and subsists till date. The order also observes that no explanation has been given in the plaint about the delay in filing of the suit. Office note demonstrates that this objection has been reiterated by the court on 18.06.2015, 19.03.2019 and 25.09.2019, however, no response to the same has been articulated. Same is the case today. CMA No.14407/2016 was filed by the defendant No.1 under Order VII Rule 11 CPC and the same also remains pending till date.

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 regard¹. The Superior Courts have held that proceedings barred by even a day could be dismissed²; once time begins to run, it runs continuously³; a bar of limitation creates vested rights in favor of the other party⁴; if a matter was time barred then it is to be dismissed without touching upon merits⁵; and once limitation has lapsed the door of adjudication is closed irrespective of pleas of hardship, injustice or ignorance⁶. Perusal of the memorandum of plaint demonstrates that the suit is time barred and no cavil to the same is articulated by the plaintiff's counsel.

Learned counsel for the plaintiff was provided ample opportunity to dispel as to why plaint may not be rejected under Order VII Rule 11(d) CPC. He remains unable to do so. Therefore, plaint is hereby rejected.

Judge

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

² 2001 PLC 272; 2001 PLC 143; 2001 PLC 156; 2020 PLC 82.

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

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

⁵ *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.

⁶ *WAPDA vs. Aurangzeb* reported as 1988 SCMR 1354.