

ORDER SHEET

HIGH COURT OF SINDH AT KARACHI

Suit No.1760 of 2022

Date	Order with signature of Judge(s)
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1. For orders on CMA No.14372/2024
2. For orders on CMA No.14373/2024
3. For orders on CMA No.14374/2024

15.10.2024

Mr. Muhammad Haroon Shaikh, advocate for the plaintiff
Mr. Saqib Khan advocate holds brief for Syed Shoa-un-Nabi, advocate for defendant
Mr. Ali Safdar Depar, Assistant Advocate General.
Ms. Alizeh Bashir, Assistant Attorney General.
Deputy MEO Abdullah
Hassan Bin Atiq U.D.C. (MEO),

Per learned A.A.G., the suit is time barred and the plaint merits being rejection forthwith. This was the issue identified on the last date of hearing and learned counsel for the plaintiff was confronted in such regard.

Learned A.A.G. adverted to paragraph 7 of the plaint which states that the plaintiff purchased the suit property in the year 1988 and till date possession has not been handed over to him. It was argued that the grievance essentially arose at the said time, however, the suit was not preferred till 2022. Learned A.A.G., also adverted to paragraph 10, being the paragraph wherein the cause of action is pleaded, and demonstrates that once again the cause of action is pleaded to have been accrued on 21.02.1988. In such circumstances the suit was argued to be manifestly time barred.

Learned counsel for the plaintiff admitted the aforesaid, however, stated that subsequent correspondence extended the period of limitation. This assertion could not be corroborated from the record or the law. Therefore, while the issue of time bar stood admitted, however, no case for extension / waiver thereof was made out.

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

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.

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

Amjad

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