

Order Sheet

**IN THE HIGH COURT OF SINDH AT KARACHI**

**Civil Revision Application No.38 of 2024**

**Present**

**Mr. Justice Muhammad Jaffer Raza**

Muhammad Faiq..... Applicant.

Versus

Ghulam Hussain ..... Respondent

Mr. Muhammad Imran Meo, Advocate for the Applicant.

Mr. Ayaz Ali, Advocate for the Respondent.

Date of Hearing: 07.04.2025

Date of Order:: 07.04.2025

**ORDER**

**MUHAMMAD JAFFER RAZA – J:** Instant Civil Revision Application has been preferred by the applicant impugning the order dated 09.01.2024, in which the leave to defend application filed in Summary Suit No.64 of 2023 was dismissed. Learned counsel for the applicant has stated that he had taken several grounds in the leave to defend application, however, the leave to defend application was dismissed only on the ground of limitation as the leave was filed admittedly after period of ten (10) days as prescribed under Article 159 of the Limitation Act, 1908. Learned counsel has conceded that he had received the copy of the summary suit on 08.07.2023 and the leave to defend was filed on 21.07.2023. However, learned counsel in this regard has stated that he had on 18.07.2023 i.e. ten (10) days after admittedly receiving the copy of summary suit filed application for extension of time. The said application was allowed and extension was granted till 21.07.2023, on which date he had filed the application for leave to defend. Learned counsel further states that the application was filed within time and the application preferred on 18.07.2023 was effectively treated as an application for condonation.

2. Conversely, learned counsel for the respondent has argued that the applicant was served on 10.05.2023 through XII-Judicial Magistrate, Karachi East, as the same parties were attending the criminal matter pertaining to the same cheques, therefore, he states that application of the applicant for leave to defend was time barred and in that respect, he supported the impugned order.

3. I have heard the learned counsel for the parties and perused the record with their assistance. The impugned order reflects that the counsel effected appearance on 08.07.2023 and the leave to defend application was filed on 21.07.2023 i.e. after thirteen (13) days. However, the learned trial Court has failed to appreciate, or even mention that application for extension filed on 18.07.2023 was granted by the said Court and the extension till 21.07.2023 was granted to the applicant. I will refrain from making any observation as to whether such extension was warranted under the law. Irrespective of the same, the said application was granted and the leave to defend application was filed on the extended date. In the light what has been observed above, the impugned order dated 09.01.2024 passed in Summary Suit No.64 of 2023 by the XIVth Additional District Judge, Karachi East, is hereby set-aside with the direction to the learned trial Court to hear and decide the leave to defend application afresh within a period of fifteen (15) days from the date of this order with no order as to cost.

J U D G E

Nadeem