

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

2nd Appeal No. 137 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of CMA 2753/2025.
2. For hearing of CMA 2754/2025.
3. For hearing of CMA 2755/2025.
4. hearing of main case.

23.04.2026.

Mr. Mir Waseem Abbas Talpur, Advocate for appellants.

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The appellants/defendants three brothers, Nabi Bux, Bachal and Wazir Ali have challenged the judgment dated 07.03.2023 passed by the learned District Judge, Badin in Civil Appeal No.54/2021. Earlier the three appellant-defendant brothers were aggrieved by the judgment of the trial Court in F.C. Suit No.78/2019 wherein the respondents No.1 to 5 in this IInd appeal including their sister Mst. Sodhi (respondent No.5) were impleaded as co-plaintiffs. The three appellant-defendant brothers duly participated in the trial proceedings and the judgment was passed on merits against the appellant-defendant three brothers and other co-defendants. The trial Court decreed F.C Suit No.78/2019 against the defendants as prayed.

2. When the appellants-defendants three brothers preferred an appeal namely C.A.No.54/2021, the judgment and decree passed by the trial Court were upheld by the District Judge Badin vide impugned order dated 07.03.2022. Aggrieved by the said judgment and decree, Counsel for the appellants-defendants contends that the three brothers instituted this 2nd appeal on 11.11.2025. Although the 2nd appeal is delayed by more than three years in its filing, counsel for the appellants-defendants argued that the delay was on account of negotiations and discussions for settlement between the

siblings. Therefore, the delay should be condoned and the appeal be decided on merits.

3. Respondent-plaintiff has been on notice in the 2nd appeal but none are in attendance today. No intimation is received and their counsel is also not in attendance. The bench cannot wait endlessly for their attendance.

4. Heard Counsel, and perused the relevant documents.

5. When queried by the bench whether there was any documentary evidence available on record that confirms that the parties in this lis were/are in negotiations that may justify and/or explain the over three and a half years delay in filing of the 2nd appeal none was pointed out by the counsel for appellants. Even otherwise although an application under Section 5 of the Limitation Act, 1908 has been filed by the appellant-defendant three brothers yet no explanation is given explaining each and every day of delay. In the facts and circumstances, this 2nd appeal is miserably time barred. A vested right has accrued to the respondents. I do not find any ground to interfere in the impugned judgment and decree. Accordingly this 2nd appeal is dismissed for the above reasons along with listed applications.

JUDGE

Tufail