

Judgment sheet.
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

R.A. No. 186 of 2000.

Date of hearing : 28.08.2014.

Applicants : Province of Sindh through Secretary to
Government of Sindh & others through
Mr. Ashfaque Nabi Qazi, Asstt. A.G.

Respondents : Abdul Qavi & another through Mr. Imran
Qureshi, Advocate.

J U D G M E N T.

NAZAR AKBAR,J- This Civil Revision is directed against the judgment dated 15.5.2000 passed by learned Additional Sessions Judge, Kotri in Civil Appeal No.37 of 1999 which was dismissed on the ground of limitation and, therefore, the judgment and decree dated 29.5.1999 passed by learned Senior Civil Judge, Kotri in F.C. Suit No.32 of 1999 filed by the respondent No.1 for damages against the applicants continued to hold the field.

2. Very briefly stated the facts of the case are that the respondent No.1 had filed F.C. Suit No. 32 of 1996 against the applicants and their contractor that they have started digging, excavating and constructing road on the land of respondent No.1 without his consent and acquisition and he claimed damages of Rs.40,000/-only on account of damages caused to his land by the applicants while constructing of a road on the land owned by him. The suit of the respondent No.1 was decreed by Senior Civil Judge, Kotri on 29.5.1999 after recording evidence of the parties.

3. The applicants preferred an appeal against the decree before the Court of Additional District Judge, Kotri and since appeal was time barred, they also filed an application under section 5 of the Limitation Act only on one ground that the authority for filing of the appeal was issued to the applicants on 11.12.1999 after 7months of the impugned judgment and decree. It is conceded by learned A.AG. appearing for the applicants that the appeal was barred by limitation of more than seven (07) months and the only ground for condonation advanced in support of application was that the requisite authority for filing appeal against the judgment and decree dated 29.5.1999 was not available till 11.12.1999. This appeal is pending for almost 14 years on the short point and that too in which the applicants have nothing to argue in view of case law mentioned in impugned judgment.

4. The decree is of a meager amount of Rs.40,000/- without any interest and the learned counsel for the respondent No.1 draws my attention to the case of Federation of Pakistan v. Jamaluddin (1996 SCMR 727) and Lahore Development Authority v. Muhammad Rashid (NLR 1997Civil 693) in support of the findings that the appeal was time barred and such authorities were incorporated in the impugned judgment. In the circumstances, I do not find any justification to interfere with the impugned judgment, therefore, this civil revision is dismissed with cost throughout in favour of the respondent No.1/ plaintiffs.

JUDGE.