

JUDGMENT SHEET
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Civil Revision No. 84423 of 2023

Mubashar Ali

Versus

Tahir Islam and another

JUDGMENT

<i>Date of hearing</i>	<i>28.10.2025</i>
<i>Revision-Petitioner by</i>	<i>Mr. Javed Anwar Janjua, learned Advocate.</i>
<i>Respondent No. 1 by</i>	<i>Malik M Arshad Kundi, learned Advocate.</i>

Sultan Tanvir Ahmad J:- On 03.09.2018 the suit for specific performance, instituted by respondent No. 1, was decreed by the learned Appellate Court in the following manners:-

“...The impugned judgment and decree dated 15.02.2018 is set-aside and suit of the appellant / plaintiff is decreed subject to the deposit of Rs. 35,19,000/- within a period of two months from this date. In case of failure, the suit shall be deemed to be dismissed and the earnest money shall be forfeited...”

In pursuance to the above, respondent No. 1 deposited the balance consideration on 05.11.2018. The learned executing Court allowed the objection raised by the revision-petitioner holding that the amount was deposited after delay of four days. Civil Appeal No. 4603-96/23 was filed by respondent No. 1, which was allowed vide judgment dated 15.12.2023.

2. Mr. Javed Anwar Janjua, learned counsel for the revision-petitioner, has submitted that the learned Court granted the decree on 03.09.2018 and respondent had sixty

days to deposit the balance consideration, which lapsed on 01.11.2018, therefore, by the time of deposit the learned Court became *functus officio* and the suit stood dismissed. Malik M. Arshad Kundi, learned counsel for respondent No. 1, while opposing this civil revision, has referred to several judgments including the cases titled “Puran Chand Versus Mohd. Din and Others” (A.I.R. 1935 Lahore 291) and “Muhammad Amin Versus Muhammad Latif” (PLD 1996 Lahore 321).

3. Learned Peshawar High Court in case titled “Sher Muhammad and 06 Others Versus Gul Fraz” (1989 CLC 1344) has already settled that the term month employed in contracts denotes a period terminating with the day of succeeding month numerically, corresponding to the day of its beginning, less one. Section 9 of the General Clauses Act-1897 (the ‘GCA-1897’) provides that it shall be sufficient for the purpose of excluding the first in a series of days or any other period of time, to use the word ‘from’, and, for the purpose of including the last in a series of days or any other period of time, to use the word ‘to’. The Limitation Act-1908 (the ‘*Limitation Act*’) also permits that for the purpose of instituting appeal or application, the day on which the judgment complained of was pronounced is to be excluded. In “Messrs Tribal Friends Co. Versus Province of Balochistan” (2002 SCMR 1903) it is observed that section 9 of the GCA-1897 is not limited to statutes or notifications but is applied for computing the period of limitation as fixed in any judgment, decree or order. Thus, day of decree i.e. 03.09.2018 is required to be excluded. Further reference, if so required, can be made to the cases titled “Messrs Malik Muhammad Nawaz, Haji Aziz Ahmad Commission Agents, Chakwal Versus Syed Mehmood Hussain” (1997 SCMR 264) and “Muhammad Yousuf and 3 Others Versus Zafarullah and another” (1992

SCMR 117).

4. 03.11.2018 was Saturday and 04.11.2018 was Sunday. BPRD circular No. 08 of 2018 dated 16.05.2018 issued by the State Bank of Pakistan is also produced, which reflects working days for deposit in the concerned bank account were from Monday to Friday.

5. In case titled “Nijabat Khan Versus Nur Ahmad and 7 Others” (PLD 1957 (W.P.) Lahore 92) this Court has expressed the view that effect of refusal by treasury or the bank to accept or deposit at any time within the Court hours is that we should regard the treasury or the bank as being closed on that day and should give the party concerned the benefit as he would have if the treasury or the bank was closed. As per section 10 of the *GCA-1897* if Court or office is closed on the day when an act is to be performed therein the act can be performed on the next opening day of the Court or office. Section 4 of the *Limitation Act* provides that period of limitation when expires on a day when the Court is closed, suit or appeal or application may be preferred on the day the Court reopens.

6. In “Messrs Malik Muhammad Nawaz, Haji Aziz Ahmad Commission Agents, Chakwal Versus Syed Mehmood Hussain” (1997 SCMR 264) the Honourable Supreme Court of Pakistan excluded last two closed-holidays. Paragraphs No. 8 and 9 of the said judgment are relevant:-

8. *A perusal of the above-quoted para. indicates that in case of any Statute or Rules, a calendar month is taken as the period on one month running from an arbitrary date, which would expire with the day in the succeeding month immediately preceding the day corresponding the date upon which the period starts. However, by virtue of Section 9 of the General Clauses Act, period of one month for the purpose of an order is computed by excluding the date on which order is passed.*

9. In the case in hand, if we were to apply the above ratio, one month period in the present case was to expire on 21-6-1996, which was Friday; whereas 22-6-1996 was Saturday (a closed holiday) and thus 23-6-1996 was the last day for the purpose of expiry of the above period of one month. There is no doubt that in the order dated 21-5-1996, it was stated that "one month from today" but one could, on the basis of the above judgment and many other judgments of the superior Courts on section 9 of the General Clauses Act, think that the aforesaid period would expire on 21-6-1996. We are, therefore, inclined to grant further opportunity to the petitioner to furnish surety for the above suit amount on the condition stated herein below, though we are mindful of the fact that the petitioner had not acted diligently before the Courts below as is reflected in the narration of facts in the impugned judgment.
(Underlining is added)

7. Mr. Javed Anwar Janjua, learned counsel for the revision-petitioner calculated the period granted for deposit in number of days and he argued that permitted sixty (60) days lapsed on 01.11.2018, therefore, the learned Court became *functus officio*. He referred to the case titled "Muhammad Wahid and another Versus Nasrullah and another" (2016 SCMR 179). In my opinion this calculation is based on incorrect interpretation of law. The case relied by him is distinguishable and has no relevance to the present one. The Court becomes *functus officio* only once the period allowed for deposit was over. I agree with the submission of Malik M. Arshad Kundi, learned counsel for the respondent that the view adopted by the learned Appellate Court is fully justified.

8. There being no merit in this civil revision, is **dismissed**, without any order as to costs.

(Sultan Tanvir Ahmad)
Judge

Approved for reporting
Announced in open Court on 11.11.2025

Judge