

1IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present

Justice Muhammad Ali Mazhar
Justice Syed Hasan Azhar Rizvi
Justice Aqeel Ahmed Abbasi

CIVIL APEPAL No.80-K of 2022

On appeal from the Judgment dated
03.10.2019 passed by the High Court of
Sindh, Karachi in High Court Appeal
No.88/2013

Sindh Irrigation & Drainage Authority

.....Appellant

Versus

Province of Sindh and another

.....Respondents

For the Appellate

Mr. Altaf Hussain, ASC
Mr. Ghulam Rasool Mangi, AOR

For the Respondent No.1

Mr. Suresh Kumar, Addl.AG

For Respondent No.2.

Mr. Badar Alam, ASC
Assisted by
Mr. M.Kashif Alam, Advocate

Date of Hearing

24.07.2025

Judgment

Muhammad Ali Mazhar, J: This Civil Appeal is directed against the Judgment dated 03.10.2019 passed by the Divisional Bench of the High Court of Sindh, Karachi in High Court Appeal No.88/2013 which was dismissed being barred by time.

2. The leave to appeal was granted by this Court on 13.07.2022 to consider whether the High Court rightly applied Article 151 of the Limitation Act 1908, which provides limitation of 20 days for filing a High Court Appeal against a decree and whether award which was made rule of the Court

is not decree, therefore, Article 156 which prescribed limitation of 90 days was applicable in the case.

3. The learned counsel for the appellant argued that the learned High Court failed to consider that Article 151 of the Limitation Act, 1908 was not applicable but the appeal could have been filed within ninety days in terms of Article 156. He further argued that the learned single judge while making the award as a rule of the court failed to consider certain crucial defects in the award which made the award void ab-initio, therefore, no limitation runs against the void order and the application moved under Section 5 of the Limitation Act, 1908 for condoning the delay should have been considered and allowed by the High Court but it was dismissed mechanically.

4. Mr. Badar Alam, the learned counsel for the respondent No.2 argued that on one hand the High Court appeal was filed, but the same petitioner on the other hand moved an application under Order 9 Rule 13 CPC before the learned Single Judge who rendered the decision for making the award rule of the Court but the application was dismissed. According to the learned counsel, the appellant could not avail two remedies simultaneously. It was further averred that the decision whereby the award was made rule of the Court is a decree and could only be challenged in the High Court Appeal within 20 days as provided under Article 151 of the Limitation Act 1908. He further argued that no plausible or satisfactory explanation was mentioned in the application moved under Section 5 of the Limitation Act, 1908 for condoning the delay in filing of High Court Appeal, therefore, the application and High Court appeal both were rightly dismissed.

5. Heard the arguments. To start with, we would like to reproduce paragraph 10 of the impugned judgment as under:



"10. So far as the point of limitation is concerned; it is worth noting that no reason was given in the listed application for condonation of delay and supporting affidavit is given save to mention that the proceedings are contrary to law an award is void. It is the settled law that in case of delay in filing a lis, the party has to explain each and every day of delay otherwise, it cannot be entertained. Nevertheless, the impugned order was passed on 22-01-2013 and on the same date the award decree was drafted but signed on 31-01-2013. The application for a certified copy was filed on 26-04-2013 i.e. after expiry of period of limitation, while copies were supplied to the appellants on 29-04-2013 but the present appeal was presented on 11-06-2013, i.e. after further delay of two months, while appeal is required to be filed within 20 days as per the provision of Article 151 of the Limitation Act, 1908. Meaning thereby that the present appeal is bleakly barred by time while no ground of condonation is available with the appellants regarding such huge delay in filing the instant appeal. The ultimate outcome of the entire discussion is that the instant High Court Appeal is dismissed being hopelessly time-barred along-with all the listed and pending applications."

6. In order to put on view the distinction and peculiarity in the midst of Article 151 and 156 of the Limitation Act, 1908, both are cited for the ease of reference as under:

Description of Appeals	Period of limitation	Time from which period begins to run
151. From a decree or order of a High Court in the exercise of its original jurisdiction.	Twenty days	The date of the decree or order.
156. Under the Code of Civil Procedure, 1908, to a High Court, except in the cases provided for by Article 151 and Article 153.	Ninety days	The date of the decree or order appealed from.

7. There is no doubt that for filing appeal against the decree or Order of the High Court in exercise of its Original jurisdiction 20 days' time is available for filing appeal whereas under Article 156 appeal may lie within 90 days from the date of the decree or Order passed under the provision of CPC to a High Court, except in the cases provided for by Article 151 and 153.


8. The learned counsel for the appellant though tried to attack on the substratum of the award also but it is a ground reality that no objections were ever filed by the appellant against the award despite notice issued by the learned single judge in Suit No.1214/2012. Since no objections were filed, therefore, vide order dated 22.01.2013, the award was made rule of the Court and office was directed to draw decree in terms of the award. The decree was obviously passed by the High Court in exercise of its original jurisdiction for which 20 days' time is provided for challenging such decree in accordance with Article 151 of the Limitation Act, 1908. Even if the argument of the learned counsel is accepted that Article 156 applies then also the appeal was filed much later than 90 days. This crucial aspect could not be controverted by the learned counsel and he fairly conceded that the appeal was filed after 90 days period. We have also noted that before the Divisional Bench of the High Court, though the application for condonation of delay was filed, no satisfactory ground was shown for not filing appeal within the prescribed period except a ground that the award was void. This is hardly a ground to be considered for condoning the delay in filing of appeal. It is well settled exposition of law that the person applying for the condonation of delay by means of an application under Section 5 of the Limitation Act, 1908 has to satisfactorily explain the delay of each and every day.

9. Due to the carelessness and inattention or lack of bona fide on the part of the appellant, there is no lawful justification to



expose or burden the other side to a time-barred appeal. The expression "sufficient cause" is always dependent on bona fide explanation. The purpose of limitation set down in the Limitation Act, 1908 is not meant to obliterate or devastate the rights of the parties but in all intent and purposes, it is to make sure that parties do not resort to lagging or sluggish trickeries and the bright idea is to keep alive every legal remedy for a period specified by the legislature under the Limitation Act, 1908 and within such period, a legal remedy can be availed for the recompense and reparation of the grievance. While considering an application for condonation of delay no straitjacket formula is provided or vouched for but each case has to be weighed on its own peculiar facts and circumstances including the conduct of the parties regarding its procrastination or laxity is also quite relevant for weighing the scale of balance of justice. The concocted or fanciful grounds cannot be considered a sufficient cause to overturn the lifespan of limitation period fixed for recourse. The law of limitation is founded on public policy with the common sense and wisdom of attaining finality to the judgments. The Latin phrase "*interest reipublicae ut sit finis litium*" accentuates that "it is in the interest of the state that there be an end to litigation".

10. In the case of Regional Police Officer, Dera Ghazi Khan Region versus Riaz Hussain Bukhari **(2024 SCMR 1021=2023 SCP 323)** it was held by one of us that while considering the grounds for condonation of delay, whether rational or irrational, no extraordinary clemency or compassion and/or preferential treatment may be accorded to the Government department, autonomous bodies or private sector/organizations, rather their case should be dealt with uniformly and in the same manner as cases of ordinary litigants and citizens. No doubt the law favours adjudication on merits, but simultaneously one should not close their eyes or oversee another aspect of great consequence, namely that



the law helps the vigilant and not the indolent. At this juncture, it is quite relevant to quote a Latin maxim "*Leges vigilantibus non dormientibus subserviunt*" or "*Vigilantibus Non Dormientibus Jura Subveniunt*" which articulates that the law aids and assists those who are vigilant but not those who are sleeping or slumbering. Delay in invoking a lawful remedy by a person or entity who was sleeping over their rights may be denied. The astuteness of the law of limitation does not confer a right but ensues incapacitation after the lapse of the period allowed for enforcing some existing legal rights and it foresees the culmination of claims which have decayed by efflux of time. Under Section 3 of the Limitation Act, 1908 it is the inherent duty of the Court to delve into the question of limitation, regardless of whether it is raised or not. Carelessness, intentional or obvious sluggishness, or dearth of *bona fide* are no reason for condonation of delay.

11. As a result of above discussion, we do not find any justification to cause any interference in the impugned judgment. This Civil Appeal is dismissed.



Karachi

24.07.2025

Khalid

Approved for reporting