JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

C.R.No.315/2017
Overseas Pakistanis Foundation, Islamabad
Versus
Joint Management (Pvt) Ltd. and another

Date of Hearings:	29.06.2018 and 13.11.2018
Petitioner by:	M/s Malik Qamar Afzal, Ijaz Mahmood Chaudhry and Saad Khan Mayar, Advocates. Mr. Irfan Farooq, Additional Director (Law), O.P.F.
Respondents by:	M/s Khurram M. Hashmi and Ramsha Noshab, Advocates for respondent No.1.

MIANGUL HASSAN AURANGZEB, J:- Through the instant revision petition, the petitioner, Overseas Pakistanis Foundation, impugns the judgment and decree dated 11.04.2017, passed by the Court of the learned Civil Judge, Islamabad, whereby (i) the petitioner's application under Sections 30 and 33 of the Arbitration Act, 1940 ("the 1940 Act") praying for the arbitration award dated 14.05.2016 to be set-aside, was dismissed, and (ii) respondent No.1's application under Sections 14 and 17 of the 1940 Act praying for a judgment and decree to be passed in terms of the said award, was allowed.

2. The facts essential for the disposal of this petition are that on 27.06.1994, the petitioner and respondent No.1 (Joint Management (Private) Limited) entered into an agreement whereunder respondent No.1 agreed to arrange the sale of 3,000 *kanals* of land in a compact shape in Revenue Estates Herdo Gehr, Jandala, Khatril, Peja, Pind Malakan and Ladhiot in Zone-5, Islamabad, to the petitioner for the development of a housing colony. Respondent No.1 was to arrange the sale of this land free of all encumbrances at the rate of Rs.55,000/- per *kanal*. Respondent No.1 was under an obligation to arrange the sale of the entire land within a period of six months from the date of the execution of the said agreement. This deadline could be extended by an agreement between the parties. The price for the land was

to be paid by the petitioner to respondent No.1 through cross cheque or any other mode agreed between the parties. The payment was to be made immediately upon mutation in the petitioner's favour.

3. Clause-21 of the said agreement provided that the petitioner shall not be liable to pay any kind of fee, commission, compensation, etc. to the seller in connection with the execution of the said agreement. The disputes and differences between the parties to the said agreement were to be resolved through arbitration. In this regard, clause-25 of the said agreement is reproduced herein below:-

> ***"25. That in case of any dispute, the matter shall be referred to the Managing Director of the OPF who shall be Sole Arbitrator and whose decision shall be final and binding on both the parties. The venue of Arbitration should be at Islamabad."***

4. After disputes and differences arising from the terms of the said agreement arose between the parties, respondent No.1, on 30.04.2011, filed an application under Section 20 of the 1940 Act before this Court praying for the matters in dispute between the parties to be referred to arbitration. At the time when the said application was filed, this Court had the original jurisdiction to entertain such an application.

5. Vide order dated 12.11.2015, the said application was allowed by this Court and matters in dispute between the parties were referred to arbitration. Mr. Justice (Retd.) Sardar Muhammad Aslam was appointed as the Sole Arbitrator with the consent of the parties. No appeal was filed by either party against the said order.

6. On 09.12.2015, respondent No.1 submitted its statement of claim before the learned Sole Arbitrator. In essence, respondent No.1's grievance was that it had not been paid the agreed consideration for 176 *kanals* of land, out of 649 *kanals* and 4 *marlas* of land which had been mutated in the petitioner's favour. The position taken by respondent No.1 was that it had entered into agreements with various land owners for the procurement of land and had paid earnest money amounting to Rs.5 million but had defaulted in the payment of remaining sale consideration,

because the petitioner did not pay for the land already mutated in its favour. Respondent No.1 had also relied on documents showing that it had not been paid for the 176 *kanals* of land.

7. In its statement of claim, one of the reliefs sought by respondent No.1 was for a direction to the petitioner to return the 176 *kanals* of land for which no consideration had been paid by the petitioner to respondent No.1. In the alternative, respondent No.1 had prayed for the payment of Rs.28,16,00,000/- (i.e., Rs.16,00,000/- per *kanal*) being the current market price for the 176 *kanals* of land.

8. The petitioner, in its reply to the statement of claim, did not deny the factum as to the non-payment of the agreed consideration to respondent No.1 for the 176 *kanals* of land. The petitioner, in the said reply, took the position that respondent No.1 had provided the land with a substantial delay resulting in the development costs being escalated. The petitioner also pleaded that respondent No.1's application under Section 20 of the 1940 Act was barred by time, and that the petitioner had not agreed to pay the Arbitrator's fee beyond the amount that can be sanctioned by the Ministry of Law.

9. After the framing of issues, recording of evidence and hearing the contesting parties, the learned Sole Arbitrator, on 14.05.2016, rendered the arbitration award. The learned Sole Arbitrator spurned respondent No.1's prayer for the re-transfer of the 176 *kanals* of land in its favour. It was held that the re-transfer of the said land *"will work heavily"* against the petitioner. It was so held because the petitioner had developed this land and was allotting plots to its members. Respondent No.1's claim for the payment of the market value amounting to Rs.16,00,000/- per *kanal* was also turned down by the learned Sole Arbitrator. It was held that since the petitioner had developed a housing colony with all its infrastructure, respondent No.1 could not be paid the present market value for the said land. Respondent No.1's claim for damages was also turned down by the learned Sole Arbitrator.

10. The agreed consideration for the 176 *kanals* of land admittedly transferred in the petitioner's favour was

Rs.96,80,000/- (i.e., Rs.55,000/- per *kanal*). Respondent No.1 is said to have paid Rs.3,07,101/- in tax, whereas an amount of Rs.16,72,000/- lay with the petitioner as security. Consequently, the total amount held by the learned Sole Arbitrator to have been payable by the petitioner to respondent No.1 for the transfer of 176 *kanals* of land came to Rs.1,16,59,101/-. The payment of this amount was said to have been withheld by the petitioner ever since February, 1997. The learned Sole Arbitrator held that respondent No.1 was entitled to compensation and in this regard, the petitioner was directed to pay respondent No.1 Rs.1,61,59,101/- at the gold rate prevailing in the year 1997. He held so, after observing that the market value of the land had undergone a tremendous increase whereas the rupee had been devalued, and that had timely payments been made by the petitioner to respondent No.1 in accordance with the terms of the agreement, respondent No.1 would have invested the amount and earned profits thereon.

11. On 17.06.2016, respondent No.1 filed an application under Sections 14 and 17 of the 1940 Act praying for the arbitration award dated 14.05.2016 to be made a rule of Court. On 18.10.2016, the petitioner filed objections under Sections 30 and 33 of the 1940 Act praying for the said arbitration award to be set-aside. Vide judgment and decree dated 11.04.2017, the learned Trial Court passed a judgment and decree in terms of the said arbitration award. In other words, the said arbitration award was made a rule of Court.

12. On 12.04.2017, the petitioner applied for the certified copy of the said judgment and decree. It is an admitted position that the certified copy of the said judgment and decree was prepared on 27.04.2017. On 21.07.2017, the petitioner filed a civil revision petition before the Court of the learned District Judge (West), Islamabad, against the said judgment and decree. Vide order dated 12.09.2017, the said revision petition was returned to the petitioner for presentation before the competent forum. The revision petition was held to be beyond the pecuniary jurisdiction of the learned District Court. Thereafter, on 15.09.2017, the

petitioner filed the instant revision petition before this Court. Along with the revision petition, the petitioner has also filed an application under Sections 5 and 12 of the Limitation Act, 1908, for condonation of delay in filing the revision petition.

13. The grounds taken by the petitioner in its application for condonation of delay are as follows:-

> ***"i. That the applicant/petitioner is a statutory body and have a legal department, which looks after the affairs of the organization and after getting approval from the concerned authorities, any further steps is taken.***
> ***ii. That the instant Revision is filed within time, however, the delay (if any) in filing the Revision due to time spent in official communication between the authorities/official occurred, the same needs to be condoned.***
> ***iii. That the petitioner earlier filed Revision Petition before Worthy District Judge (West), Islamabad but same was returned due to lack of pecuniary jurisdiction. It is worth mentioning here that the petitioner was filed with due diligence and time spent in the same way also need to be condoned.***
> ***iv. That the delay (if any) in filing the Civil Revision was not deliberate rather due to time spent in official communication between the Authorities/official.***
> ***v. That it is held in many judgments of superior courts that technicalities shall not stand in the way of justice.***
> ***vi. That the delay (if any) is not condoned, the applicant/petitioner shall suffer an irreparable loss. It will also result in causing huge loss to the Govt. Exchequer."***

14. Where an application for condonation of delay is filed, it is the foremost duty of the Court to first decide such an application, and only after such an application is allowed, only thereafter can it proceed to decide the case on merits. In the recent judgment, the Division Bench of the Hon'ble High Court of Sindh, in the case of Muhammad Iqbal Vs. Muhammad Ahmed Ramzani (2014 CLC 1392), it has been held as follows:-

> ***"If the proceedings brought before a court is barred by time, the court cannot assume jurisdiction and shall have no jurisdiction in the matter, unless the delay is condoned first. Till such time, the jurisdiction of the court will be restricted only to the extent of deciding the question of limitation. In case such question is decided by the court by declining to condone the delay, the proceeding shall remain time barred and the matter will end there. On the other hand, if the delay is condoned, only then shall the court have the jurisdiction to proceed further in the matter. Thus, it is mandatory for the court to decide the question of limitation before entertaining the matter and before passing any other order therein. Since the court shall not have jurisdiction in a time-barred proceeding in view of our above observations, all steps taken and orders passed in any such time-barred***

proceeding, and in all proceedings arising therefrom, shall be void and without jurisdiction."

The Hon'ble Judge who authored the said judgment rose to grace the Hon'ble Supreme Court. Therefore, the said judgment is to be respected and revered.

15. A suit, or an appeal or a revision petition, preferred after the limitation period provided in law is without jurisdiction and should be dismissed even if nobody had pointed out such a *lacuna*. The Court was supposed to check the issue of limitation. A plea with respect to limitation cannot be waived and even if it is waived, it can be taken by the party waiving it at a subsequent stage or by the Court itself. Where a period of limitation for an action is provided by law, equitable considerations cannot be brought in or applied against the express provisions of the law of limitation so as to nullify, defeat and override such a law. Where the limitation period for filing a suit, an appeal or a revision petition has lapsed, the doors of justice would stand closed and the plea of injustice or hardship cannot be set out as a ground to seek an extension in the limitation period. Reference in this regard may be made to the law laid down in the cases of Muhammad Shafi Vs. Abdul Rehman (PLD 2005 Lahore 129) and Ahmad Khan Vs. Kosar Parveen (2009 CLC 759).

16. In view of the above, I propose, in the first instance, to decide the question as to whether the instant revision petition is barred by limitation.

17. Learned counsel for the petitioner made submissions in reiteration of the petitioner's pleadings in its application for condonation of delay. He further submitted that the petitioner would be subjected to grave injustice if the revision petition is not heard and decided on merits; that the filing of the revision petition against the judgment and decree dated 11.04.2017 before the Court of the learned District Judge was not deliberate but as a result of a *bonafide* mistake; that after the revision petition was returned to the petitioner, no time was lost in filing the revision petition before this Court; that the period consumed while the revision petition was pending before the Court of the learned

District Judge ought to be excluded from the limitation period for filing a revision petition against the said judgment and decree before this Court; that if the said period is excluded, the revision petition can be said to have been filed before this Court within time; that the memo of the revision petition should have been returned earlier by the Court of the learned Additional District Judge; that the delay on the part of the said Court to return the memo of the revision petition should not prejudice the petitioner; and that some leverage has to be given to the petitioner for the delay in filing the revision petition since the petitioner is a Government controlled organization and the approval process for filing a revision petition is time consuming. Learned counsel for the petitioner prayed for the application for condonation of delay to be allowed and for the revision petition to be decided on merits. Learned counsel for the petitioner placed reliance on the minority view taken in the judgment of Khushi Muhammad Vs. Mst. Fazal Bibi (PLD 2016 S.C. 892) and the case law referred to therein.

18. On the other hand, learned counsel for respondent No.1 submitted that the ninety-day period for filing a revision petition against the judgment and decree dated 11.04.2017 would commence from 27.04.2017 when the certified copy of the said judgment and decree was prepared; that the said limitation period for filing a revision petition came to an end on 25.07.2017; that the instant revision petition was filed before this Court on 15.09.2017; that since the instant revision petition was filed with the delay of more than one and a half month, the same was liable to be dismissed as time barred; that the time consumed by the petitioner in pursuing its revision petition before the Court of the learned District Judge cannot be condoned or excluded from the limitation period under Section 14 of the Limitation Act, 1908; and that none of the grounds agitated by the petitioner in its application for condonation of delay are sustainable. Learned counsel for respondent No.1 prayed for the petitioner's application for condonation of delay as well as its revision petition to be dismissed. In making his submissions, learned counsel for respondent No.1 placed reliance on the judgment reported as

Khushi Muhammad Vs. Mst. Fazal Bibi *(Supra)* and Tribal Friends Co. Vs. Province of Balochistan (2002 SCMR 1903).

19. I have heard the contentions of the learned counsel for the contesting parties, and have perused the record with their able assistance.

20. The facts leading to the filing of the instant petition have been set out in sufficient detail in paragraphs No.2 to 12 above, and need not be recapitulated.

21. As mentioned above, in the first instance, this Court is to decide whether or not to allow the petitioner's application for condonation of delay in filing the instant revision petition.

22. Vide the impugned judgment and decree dated 11.04.2017, the learned Civil Court, *inter-alia,* dismissed the petitioner's objections to the arbitration award dated 14.05.2016. By doing so, the learned Civil Court passed an order *"refusing to set-aside an award."* Under Section 39 of the 1940 Act, an order refusing to set-aside an award is appealable. Therefore, I am of the view that a revision petition against an order refusing to set-aside an arbitration award is not maintainable and the appropriate remedy before the petitioner was to have filed an appeal under Section 39 of the 1940 Act against the judgment and decree dated 11.04.2017, passed by the learned Civil Court. Had the petitioner not filed objections to the arbitration award, the question of the learned Civil Court *"refusing to set-aside the award"* would not have arisen. In such a case, a revision petition would have been maintainable against a judgment and decree passed in terms of the arbitration award on an application under Sections 14 and 17 of the 1940 Act praying for the award to be made a rule of Court. After considering all this, learned counsel for the petitioner prayed for the instant revision petition to be converted and treated as an appeal. Since it is not disputed that the limitation period for filing a revision petition under Section 115 C.P.C. and an appeal under Section 39 of the 1940 Act is the same i.e., 90 days, this revision petition is being treated as an appeal and considered to have been filed on the day the revision petition was

filed before this Court. Despite this, the petitioner would nonetheless have to cross the hurdle of limitation.

23. Now it is an admitted position that the certified copy of the said judgment and decree dated 11.04.2017 was prepared on 27.04.2017. The ninety-day limitation period for filing an appeal commenced from 27.04.2017. Since the subject matter of the arbitration between the contesting parties was far in excess of Rs.25,00,000/-, the appeal should have been filed before this Court. The limitation period for filing an appeal against the said judgment and decree ended on 25.07.2017.

24. Instead of filing an appeal before this Court, the petitioner filed a revision petition before the learned District Judge on 21.07.2017 (i.e., just a few days before the limitation period for filing an appeal or a revision against the said judgment and decree was to expire). On 12.09.2017, the Court of the learned District Judge returned the revision petition to the petitioner so that the same is filed before the competent forum. The revision petition was held to be not maintainable before the Court of the learned District Judge since it was beyond its pecuniary jurisdiction. On 15.09.2017, the petitioner filed a revision petition before this Court. This revision petition was time barred by more than a month and a half. Since the revision petition is being treated as an appeal, it would also be time barred by same period as the revision petition.

25. The primary ground taken by the petitioner in its application for condonation of delay was that the *"official communication between the authorities/officials"* consumed some time which had caused the delay in the filing of the revision petition. This, I am afraid, is not a ground on which to allow the application for condonation of delay. The law of limitation is the same for a private citizen as for the Government or Government-controlled organizations. The Government or a Government controlled organization, like any other litigant, must take responsibility for the acts and omissions of its officers. It is only in cases where fraud, bad faith or cross purposes on the part of the officers or agents of the Government or Government-controlled

organizations is clearly made out that a different standard can be imparted. In the case at hand, this is not one of the grounds on which condonation of delay in filing the revision petition has been sought. Red-tapism, bureaucratic hurdles, delayed governmental/official approvals, lack of coordination between Government departments or within a particular department cannot be treated as *"sufficient cause"* for seeking condonation of delay in filing actions, suits, appeals or petitions within the limitation period provided by law. In holding so, I derive guidance from the law laid down in the following cases:-

i) In the case of Province of East Pakistan Vs. Abdul Hamid Darji (1970 SCMR 558), it was laid down as follows:-

> ***"This Court has also in several cases had occasion to point out that so far as limitation is concerned the Government cannot claim to be treated in any manner differently from an ordinary litigant, because of the fact that the Government enjoys unusual facilities for the preparation and conduct of their cases and its resources are much larger. If in spite of these facilities the Government cannot comply with the requirements of the law of limitation, then it is for it to take steps to have that law changed and not to ask the Courts to give a different interpretation to its provisions."***

ii) In the case of The Deputy Director, Food, Lahore Region, Lahore Vs. Syed Safdar Hussain Shah (1979 SCMR 45), a petition for leave to appeal was time barred by 45 days, and the sole ground taken by the petitioner in its application for condonation of delay was that the matter had remained under examination of the Government at various levels and got delayed in that process. In dismissing the application for condonation of delay, the Hon'ble Supreme Court held as follows:-

> ***"The plea raised legally speaking does not constitute a "sufficient ground" for condonation of delay. The period of limitation was fully known to the petitioners, and they would have been well advised to finalise the matter in respect of taking a decision to file or not to file an appeal, well in time. It is well settled that while asking for condonation of delay each day of limitation has to be properly and sufficiently explained. The applications filed for condonation of delay do not fulfil these requirements, apart from the fact that as already observed even on principle the mere fact that the matter got delayed because***

of its having remained under examination at different departmental levels is not a valid ground for extension of period of limitation."

iii) **In the case of Commissioner of Income Tax Vs. Pir Ahmad Khan (1981 SCMR 37), it was held as follows:-**

"The time said to have been spent during which the various authorities were examining the matter with a view to decide whether an appeal should or should not be filed cannot be excused. This Court has repeatedly laid down that so far as the limitation is concerned, the Government cannot claim to be treated in any manner differently from an ordinary litigant. In fact, the Government enjoys unusual facilities for the preparation and conduct of their cases and its resources are much larger than those possessed by ordinary litigants. If in spite of these facilities the Government cannot comply with the requirement of the law of limitation, then it is for it to take steps to have that law changed."

iv) **In the case of Income-tax Officer, Company Circle XII, Karachi Vs. Messrs Shaikh Miran Bux Karam Bux Ltd. (1986 SCMR 1255), the time consumed in *"obtaining necessary sanction for funds and for preparing the petitions"* before the Hon'ble Supreme Court was not considered to be sufficient cause for condonation of delay in filing petitions for leave to appeal.**

v) **In the case of Pakistan, through Secretary, Ministry of Defence Vs. Messrs Azhar Brothers Limited (1990 SCMR 1059), the Hon'ble Mr. Justice Ajmal Mian (as he then was) had the occasion to hold that as the law stands, the Government cannot be treated differently than a private litigant on the question of limitation under Section 5 of the Limitation Act. It was further held that a good ground for condonation of delay would have been made out if it was averred and substantiated that the delay in filing an appeal was on account of a deliberate act on the part of some official who was in league with the respondent.**

vi) **In the case of Central Board of Revenue Vs. Messrs Raja Enterprises (1998 SCMR 307), it was held as follows:-**

"This Court has repeatedly laid down that so far as the limitation is concerned, the Government cannot be treated differently from an ordinary litigant. If in spite of having enormous sources and facilities, the Government

continues to delay the filing of cases in time detrimental to its own interest, the opposite party cannot be penalized for its negligence."

vii) In the case of Government of Balochistan, Public Health Engineering Department Vs. Muhammad Ibrahim (2000 SCMR 1028), it was held that the Government is at par with other litigants and no preferential treatment can be accorded to the Government in computing limitation.

viii) In the case of Muhammad Bashir Vs. Province of Punjab (2003 SCMR 83), it was held as follows:-

"5. Sole ground agitated before us, on which leave to appeal was granted, revolves around the exercise of discretion by the High Court in the matter of condonation of delay. It was contended that Government Departments are not entitled to any differential treatment for condonation of delay and they are to be treated at par with an ordinary litigant. We are in no manner of doubt in reiterating and reaffirming the well-settled principle that public functionaries are not entitled to any preferential treatment in the matter of condonation of delay and they are to be treated on equal footing with an ordinary litigant. There is also no cavil with the proposition that with the passage of time a valuable right accrues in favour of the opposite party, which should not be slightly disturbed and destroyed."

ix) In the case of Assistant Commissioner, Evacuee Trust Board Vs. Muhammad Ayub (2003 SCMR 841), the plea of departmental procedural formalities was held not to be sufficient ground for condonation of delay in filing a revision petition beyond the limitation period provided by the law.

x) In the case of Province of Punjab Vs. Kishwar Qudus Paul (2004 SCMR 571), it has been held as follows:-

"4. This Court has time and again held that delay taking place in the Government offices in the process of filing petitions, could not be said to be sufficient cause for condoning the delay. In the instant case there is delay of fourteen days in filing the petition for leave to appeal and each day's delay has not been satisfactorily accounted for. It was bounden duty of the petitioner to have pursued the matter for the purpose of filing the petition as soon as the judgment was passed on 9-8-2002. The petitioner cannot be allowed to place blame upon his subordinate officers who though were also equally responsible to expedite the process of filing the petition within time. It must be noted that delay in filing petition has created vested right in favour of respondent which cannot be lightly ignored

unless strong case is made out showing sufficient cause accounting each day's delay."

Law to the said effect has also been laid down in the cases of Federation of Pakistan Vs. Jamaluddin (1996 SCMR 727), Government of Balochistan Vs. Ghulam Muhammad (2001 SCMR 19), Chief Secretary, Government of Sindh Vs. Muhammad Rafique Siddiqui (2004 PLC (C.S.) 962), Government of Pakistan Vs. Malbrow Builders Contractors (2006 SCMR 1248), Post Master-General, N.-W.F.P. Peshawar Vs. Liaquat Ali (2009 SCMR 763), Food Department Gujranwala Vs. Ghulam Farid Awan (2010 SCMR 1899), District Officer (Female) Vs. Ahmed Sultan (2012 YLR 2250), Pakistan Defence Housing Authority Vs. Shahid M. Amin (2016 CLC 624) and Mehran Ginning Industries Vs. Sajid Shafique (2017 CLD 1165).

26. Now as regards the question as to whether the time consumed by the petitioner in prosecuting its revision petition before the learned District Court can be ignored or excluded from the ninety-day limitation period for filing a revision petition, the petitioner has not advanced any explanation as to why the petitioner had filed the revision petition on 21.07.2017 before the learned District Court. The valuation in respondent No.1's petition was far in excess of Rs.25,00,000/-. The amount awarded by the learned Sole Arbitrator in respondent No.1's favour was also more than the pecuniary jurisdiction of the learned District Court. Ignorance of the law cannot be a valid defence. Therefore, the petitioner cannot be said to have filed the revision petition or to have prosecuted the same before the learned District Judge for a period of about a month and a half, with *"due diligence"* or *"in good faith."* In the case of *Khushi Muhammad Vs. Mst. Fazal Bibi (supra)*, it has *inter-alia* been held as follows:-

> ***"38. .... Time spent pursuing an appeal before a wrong forum, in good faith and with due diligence ought in our view to constitute sufficient cause for condonation of delay. But the act of approaching a wrong forum must be accounted for: it should be established that due to some honest, bona fide and genuine ambiguity in the law or in fact, a party or his counsel was led astray in terms of approaching a wrong forum. Mere incompetence of the counsel, inadvertence, negligence or ignorance of law attributable to him and/or overlooking of the***

record by the counsel cannot constitute sufficient cause ipso facto, but the factor(s) which misled the legal counsel, including any ambiguity in the law, causing him to file the appeal before the wrong forum must be indicated. Mere wrong advice of counsel is not an adequate ground per se to constitute sufficient cause because if this rule is accepted, the centuries tested rule that ignorance of law is no excuse would stand violated. Besides, the above factors which caused ambiguity and misled the appellant (or his counsel as the case may be) have to be stated with clarity and precision in the application for condonation of delay and proved on the record."

(Emphasis added)

27. Since the petitioner's application for condonation of delay contains no pleadings with specificity, clarity and precision as to what accounted for the petitioner's *bonafide,* honest and genuine mistake or ambiguity in the law or in fact causing it to file the revision petition before the wrong forum (i.e., the learned District Court), it falls short of the requirements for such an application set in the case of *Khushi Muhammad Vs. Mst. Fazal Bibi (supra)*. The reliance placed by the learned counsel for the petitioner on the minority view in the case of *Khushi Muhammad Vs. Mst. Fazal Bibi (supra)*, this Court has to follow the majority view taken in the said judgment.

28. In view of the above, I have no reason to allow the petitioner's application for condonation of delay in filing the instant revision petition. After holding so, it would not be appropriate to give any findings on the merits of the main revision petition. The petitioner's application for the condonation of delay is dismissed and as a consequence of such dismissal, the instant revision petition too stands dismissed. There shall be no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON _____/2018.

(JUDGE)

*Qamar Khan** ***APPROVED FOR REPORTING***