

HCJD/C-121  
**JUDGMENT SHEET**

**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**Civil Revision. No.177/2017**

**KARAMAT MASIH**  
*VERSUS*  
**SHEIKH MUSHTAQ HUSSAIN, ETC**

Petitioner by : **Mr Muhammad Shahzad Siddique, Advocate**  
Date of Hearing : **25-10-2019.**

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**ATHAR MINALLAH CJ:** Through this petition, the petitioner has assailed orders, dated 30.11.2016 and 05.01.2017, passed by the learned trial Court and the learned appellate Court, respectively.

2. The facts, in brief, are that the petitioner filed a suit for seeking specific performance of agreement, dated 20.02.2006, regarding plot measuring 3 Marlas situated in Khewat No.625, Khatooni No.967, Khasra Nos.1494, 1495, 1599, Mouza Shakrial, Tehsil and District, Islamabad (hereinafter referred to as the "***Plot***"). The suit of the petitioner was partially decreed vide ex-parte judgment and decree, dated 30.11.2016. The petitioner filed an appeal and the same was found barred by the time prescribed under the law and, therefore, it was dismissed vide judgment and decree, dated 05.01.2017. The petitioner filed an application and that too was dismissed by the learned appellate Court vide order, dated 07.02.2017.

3. The learned counsel for the petitioner has been heard at length. The learned counsel, despite his able assistance was not able to persuade this Court that the dismissal of the appeal vide order, dated 05.01.2017 on the sole ground of having been assailed after lapse of time prescribed under the law, suffers from any legal infirmity. It is not denied that the appeal was not filed within the time prescribed under the law nor an application for condonation of delay was filed. Reliance by the learned counsel for the petitioner on the judgment titled 'Silk Bank Limited (formerly Saudi Pak Commercial Bank Limited) through Attorney vs. Al-Khan Constructions Company (Pvt) Ltd and others', **2017 CLD 496** is misplaced because appeals are entertained at the District Courts Islamabad during winter vacations. The judgment cited by the learned counsel for the petitioner is not relevant in the facts and circumstances of the instant case.

4. It is settled law that delay defeats equity. Equity leans in favour of a vigilant litigant. The law of limitation is not considered a mere formality and is required to be observed as being of mandatory nature. These principles rest on the foundation that lapse of time creates rights in favour of the other party and, therefore, burdening the party which fails to act within the stipulated time, to demonstrate sufficient and satisfactory cause/reason for delay regarding each day. A person may have an enforceable right, but if he/she fails to enforce the said right within the time stipulated by law, then the right becomes unenforceable. Reliance for these principles is placed on **[2012 SCMR 2801]** "State Bank of Pakistan through Governor versus Imtiaz Ali

Khan", **[2004 SCMR 944]** "Ghulam Sarwar versus Amir Hussain",  
**[PLD 2010 S.C. 705]** "Lahore Development Authority versus Mst.  
Sharifan Bibi" and **[2006 SCMR 631]** "Shahid Pervaiz alias Shahid  
Hameed versus Muhammad Ahmad Ameen".

5. In view of the above reasons, this petition is without  
merit and, therefore, accordingly dismissed.

**(CHIEF JUSTICE)**

Announced in the open Court on **13.01.2020** .

**(CHIEF JUSTICE)**

*\*Asif Mughal/*