

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 630 of 2022

Muhammad Ishfaq

Versus

Muhammad Saleem, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	15.08.2022	Mr. Abdul Hameed, Advocate for the petitioner. Mr. Farhat Ullah Jan, Advocate for respondent No.1.

The petitioner has impugned the order passed by the learned Additional District Court dated 10.01.2022, pursuant to which his application for leave to defend the suit was dismissed for being time barred.

2. The learned counsel for the petitioner contended that this Court had issued Notification No. F.(01)/Genl/IHC/9770 dated 30.09.2021, pursuant to which it was clarified that limitation period for purposes of Section 12 of the Limitation Act, 1908 ("**Act**") would not apply from 24.03.2020 to 30.09.2021 for purposes of filing any suit, petition and appeal etc., in view of the emergency situation that had emerged due to Covid-19. He further submitted that the application of the petitioner for leave to appear

and defend the suit ought to have been heard and decided on its merits, which was not done.

3. Learned counsel for the respondent submitted that there was no infirmity in the impugned order dated 10.01.2022, whereby the learned Additional District Judge had dismissed the application filed by the petitioner for being barred by limitation.

4. This Court had issued notification dated 30.09.2021 clarifying that in view of the emergency situation prevailed due to Covid-19 the time period from 24.03.2020 to 30.09.2021 would be excluded for the purposes of computing the limitation in terms of section 12 of the Limitation Act, 1908. It appears that the learned counsel for the parties were unable to draw the attention of the learned Additional District Judge to the aforementioned notification and consequently the said notification had not been discussed in the impugned order. The notification dated 30.09.2021 states the following:

"Whereas, due to pandemic Corona-virus (COVID-19) coupled with lock-down policy of the Federal government, this court vide Office Order No. 181/IHC/2020 dated 24.03.2020, was pleased to direct that owing to the prevailing emergency situation in the country, the period of limitation prescribed by laws in filing

appeals/petitions etc in this court as well as in the Civil and District Courts, Islamabad, till the time the situation returns to normalcy, shall be deemed to be condoned and the courts shall be presumed to be closed during the period in the public interest, within the meaning Section 4 of the Limitation Act, 1908.

2. *Now the Federal Government has lifted certain restrictions earlier imposed by it, therefore, keeping in view the policy of the Government, the Hon'ble Authority has been pleased to direct that the above said Office Order shall cease to have effect from 30.09.2021 and the period from 24.03.2020 to 30.09.2021 shall be excluded for the purpose of computing the limitation in terms of Section 12 of the Limitation Act 1908, for filing any suit, petition and appeal, etc.*

5. The object of issuing the notification was to take cognizance of the hardship that litigating parties were facing in seeking access to justice.

6. Given that this aspect of the matter has not been addressed in the impugned order, the instant petition is **allowed** and consequently the impugned order is set-aside. The application of the petitioner seeking leave to defend the suit shall be deemed to pending before the learned Additional District Judge. The parties are directed to appear before the learned Additional District

Judge on **25.08.2022** to enable the learned court
to adjudicate the application on its merits.

(BABAR SATTAR)
JUDGE

Saeed.