

Form No.: HCJD/C
JUDGEMENT SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 2458 of 2010

Khurram Shahzad

VS

Abdul Hameed and others

For the Petitioner: **Mr. Muhammad Fayyaz
Azim, Advocate.
Mr. Niaz Ullah Khan
Naizi, Advocate**

For Respondent No.1 to 4: Ex-parte.

Date of Decision: **18.11.2019.**

FAO No. 33 of 2015

Khurram Shahzad

VS

M/s Packola Bottlers Pvt. Ltd. and another

For the Appellant: **Mr. Muhammad Fayyaz
Azim, Advocate.
Mr. Niaz Ullah Khan
Naizi, Advocate**

For Respondents: **Ex-parte.**

Date of Decision: **18.11.2019.**

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AAMER FAROOQ J. This judgement shall decide the instant petition as well as F.A.O No.33/2015 as common questions of law and facts are involved.

2. The facts, in brief, are that a judgement and decree was passed in favour of respondents No.1 and 2 and

against the petitioner with respect to the property bearing Plot No.47, Industrial Triangular Area, Kahuta Road, Islamabad. Decree was challenged up-till august Supreme Court of Pakistan and attained finality. During the execution proceedings, respondent No.1 had the property transferred in the record of Capital Development Authority in his favour and the execution proceedings were adjourned *sine die*. An application was filed by respondent No.2 as General Manager of respondent No.1 seeking revival of the execution proceeding. The referred revival was challenged by the petitioner/appellant, however, the same objection was dismissed and is the subject matter of FAO No.33/2015. Meanwhile in the execution proceedings the petitioner also move an application under Section 476 Cr.P.C. which was dismissed and a revision petition was filed against the same, which also was dismissed, hence the present petition and appeal.

3. Learned counsel for the petitioner, *inter alia*, contended that the application on behalf of respondent No.1 was made without authority and no application could have been entertained for revival of the execution proceeding. Moreover, it was contended that misstatement was made, therefore, application under Section 476 Cr.P.C. was filed.

4. Arguments advanced by learned counsel for the parties have been heard and documents placed on record examined with their able assistance.

5. At the very outset, it is observed that FAO No.33/2015 is barred by limitation inasmuch as in the appeal Order dated 04.03.2008 has been challenged against which initially an appeal was filed before District Judge, Islamabad, however, subsequently the memorandum of appeal was ordered to be returned due to the valuation made in the suit. The appeal was filed in this Court on 04.07.2009. The sole ground of condonation of delay agitated in C.M. No.373/2009 is that remedy was being pursued in the wrong forum. The referred ground is not valid for the purpose of condonation of delay hence the application is dismissed and the appeal is held to be barred by limitation. In so far as initiation of criminal proceeding against respondent No.2 is concerned, no cogent ground was put forward nor any error of law was pointed out in the impugned Order.

6. For the above reasons, the instant Writ Petition as well as FAO No.33/2015, are dismissed.

(AAMER FAROOQ)
JUDGE