

## **ORDER SHEET.**

### **IN THE ISLAMABAD HIGH COURT, ISLAMABAD.** **JUDICIAL DEPARTMENT.**

**W.P No.2181/2019.**

Overseas Pakistanis Foundation

Versus

Mir Fazal etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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01. 11.06.2019 Ch. Adil Mehboob, Advocate for the petitioner.

Through the instant writ petition, the petitioner has assailed the order dated 15.05.2019, passed by learned Additional District Judge-VI (East) Islamabad, whereby revision petition filed by the respondents was allowed and the order passed by learned Executing Court regarding permission to deposit the amount was dismissed.

2. Learned counsel for the petitioner contends that this Court while deciding C.R No.71/2011 titled "*Overseas Pakistanis Foundation & another vs. Mir Fazal & others*" passed specific direction in the following manner:-

*"Before parting with the said judgment, it has been observed that Rs.4,800,000/- was deposited in the account of Mir Fazal (late)/respondent No.1 without his consent and as such, there is no evidence that the said amount has been returned by him, even both the Courts below have not passed any speaking order to this extent. Keeping in view the concurrent findings of both the Courts below and observations made by this Court, it is necessary to pass an order for return of the said amount of Rs.4,800,000/- which was deposited by the petitioner side without information to Mir Afzaal(late)/respondent No.1, therefore, respondent No.1 through legal heirs is directed to return the amount of Rs.4,800,000/- by depositing the same with the learned Executing Court within the period of 60 days, whereafter the learned Executing Court shall return the same to its eligible owner after due verification and inquiry. However, if the said amount was already returned, then the directions will cease to exist."*

3. Learned counsel for the petitioner further contends that the above said order has not been complied with by the respondents and they filed application for deposit of the amount after expiry of 60 days as referred in the order of this Court passed in C.R No.71/2011, whereby the said request was turned down by learned Civil Court vide order dated 29.03.2019; that the respondents filed civil revision, whereby Revisional Court allowed the revision petition through impugned order dated 15.05.2019 and granted time for deposit of amount of Rs.4,800,000/-; that the respondents have not complied with time line, therefore, they are not entitled for any relief, even judgment rendered by this Court in C.R No.71/2011 was conditional and the effect of the decree in favour of the respondents may be set aside in favour of the petitioner but Revisional Court has not considered all these aspects and passed the impugned order contrary to law.

4. I have heard learned counsel for the petitioner and gone through the record.

5. Perusal of the record reveals that the petitioner filed C.R No.71/2011 titled "*Overseas Pakistanis Foundation & another vs. Mir Fazal & others*" before this Court, which was dismissed vide judgment dated 24.01.2019, however, the respondents were directed to deposit Rs.4,800,000/-, which was wrongly deposited in the account of Mir Fazal (late) without his consent and Courts below have not passed any speaking order to that effect. The respondents in compliance of judgment of this Court passed in C.R No.71/2011 submitted application for appropriate orders with the prayer that they may be allowed to deposit amount of Rs.4,800,000/-. The said application was filed on 29.03.2019 before the Court, which was dismissed through impugned order on 15.05.2019. The respondents assailed the said order in civil

revision and the learned Revisional Court calculated and computed entire period of 60 days in the following manner:-

*“The petitioners applied for certified copy of the judgment passed by the Hon’ble High Court on 17.01.2019 at serial No.1911 and the copies were delivered on 30.01.2019. Thereafter, the petitioner filed application with the learned executing court to allow them to deposit the amount, the learned executing court instead of granting permission dismissed the application vide impugned order. Obviously, when the petitioner obtained the certified copy of the judgment of the Hon’ble High Court then they made application before the executing court. The time consumed in obtaining the certified copies should have been excluded, but the learned executing court without excluding the time from 17.01.2019 to 30.01.2019 computed the period of sixty days. There was no fault of the petitioners, therefore, the time consumed in obtaining the certified copies could not be computed. The learned executing court has committed illegality while dismissing the application of the petitioners. Impugned order is not sustainable, hence, revision petition is accepted and impugned order is set aside.”*

6. Keeping in view above referred explanation rendered by learned Additional District Judge, the impugned order is in accordance with law and no illegality has been observed in it. Learned Revisional Court has rightly excluded the time from calculation of 60 days as the time consumed in obtaining certified copies has to be excluded under the law.

7. For the forgoing discussion, the instant writ petition bears no merits, therefore, the same is hereby dismissed in limine.

(MOHSIN AKHTAR KAZANI)  
JUDGE