

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Mr. Justice Sardar Tariq Masood  
Mr. Justice Amin-Ud-Din Khan  
Mr. Justice Jamal Khan Mandokhail

**C.P.L.A No. 279-Q of 2020**

Against the judgment dated  
15.10.2020 passed by the High Court  
of Balochistan, Sibi Bench in Civil  
Revision Petition No. (s) 13 of 2018.)

**Mst. Khairan Bibi**

*...Petitioner*

***Versus***

**Mst. Haseena Atta and others.**

*...Respondents*

For the petitioner:

Mr. Muhammad Munir Paracha, ASC.

For the Respondents:

Mr. Kamran Murtaza, Sr.ASC.  
Raja M. Rizwan Ibrahim Satti, ASC.

For AG Balochistan:  
(On Court Notice)

Mr. M. Ayaz Khan Swati, Addl. AG.  
Balochistan.

Date of Hearing:

14.10.2021

**ORDER**

**AMIN-UD-DIN KHAN, J.**

**C.M.A.No.309-Q of 2020**

Office has noted that the titled CPLA is barred by 3 days. The ground mentioned in Para 3 of the application that due to extreme cold weather and illness of the Steno typist he could not draft the petition within time, therefore, condonation of delay has been sought. We are afraid it is hardly a ground for condonation of delay. This application is, therefore, dismissed.

2. At this stage even learned counsel for the respondents caveator has raised the objection that the petition was not competent and a direct appeal was to be filed. Learned counsel has referred that in the plaint filed by the respondents-plaintiffs there are two prayers; one for declaration and the other for possession, which is reproduced:-

"It is, accordingly respectfully prayed that a decree may kindly be passed in favour of plaintiff and against the defendants in the following terms:-

- i. Declaration be made that the plaintiff is lawful allottee of the house vide Missal/Patta No. 2130 measuring about 100x100 sq: Ft: including room in dispute.
- ii. Declaration be also made that the defendant No. 1 has no concern with the or legal right over the room in dispute therefore, her possession is illegal and lawful."

Learned counsel for the respondents further states that the decree has been executed and possession has been delivered to the respondents-plaintiffs.

3. In Para No. 11 the value for the purposes of jurisdiction of the suit fixed by the plaintiffs-respondents is Rs:1,00,000/- and for the relief of possession value is also stated as Rs:1,00,000/-. In the prayer clause the prayer of possession of one room which was in possession of the defendant-petitioner was prayed whereas declaration of total property measuring 10000 square feet is claimed.

4. Learned counsel for the petitioner states that the value of Rs:1,00,000/- for the purposes of possession fixed by the plaintiff-respondent was for the whole of the property. We hold that this assertion of learned counsel for the petitioner is absolutely wrong and against the record. Value for the purposes of jurisdiction was Rs:1,00,000/- as well as for possession was also fixed as Rs:1,00,000/- which is the subject matter of instant petition, therefore, in accordance with the Article 185(2)(d) of the Constitution when the value of the subject matter before the learned trial court as well as before this Court is more than Rs:50,000/- and the learned High Court has reversed the findings of the learned District Judge, therefore, a direct appeal was competent before this Court for which period of 30 days is provided. Article 185(2)(d) is reproduced:-

"185. (1) -----

- (2) An appeal shall lie to the Supreme Court from any judgment, decree, final order or sentence of a High Court -----
- (a). -----
- (b). -----
- (c). -----
- (d). If the amount or value of the subject matter of the dispute in the court of first instance was, and also in dispute in appeal is, not less than fifty thousand rupees or such other sum as may be specified in that behalf by Act of [Majlis-e-Shoora (Parliament)] and the judgment, decree or final order appealed from has varied or set aside the judgment, decree or final order of the court immediately below; or."

Here we refer and reproduce Order XII Rule 2 of the Supreme Court Rules, 1980:-

"The petition of appeal shall be presented within thirty days from the date of the grant of the certificate by the High Court or the date of impugned judgment, decree or final order of the High Court:"

5. In this view of the matter, we could have converted this CPLA into an Appeal, if the same was filed within the limitation period. However, if the limitation of appeal is counted the petition becomes barred by 33 days. When there is no explanation of 3 days what to say the delay of 33 days. At the most it might be termed as an ill-advice by the counsel, which is also not a ground for condonation of delay. In this view of the matter, this petition stands dismissed.

Judge

Judge

Judge

Islamabad, the  
14th of October, 2021  
(Mazhar Javed Bhatti)

APPROVED FOR REPORTING

