

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

**Present:**

Mr. Justice Yahya Afridi, CJ  
Mr. Justice Muhammad Shafi Siddiqui

**Civil Petition No. 1898-L of 2021**

*(Against the order dated 16.09.2021 of the  
Lahore High Court, Lahore passed in Writ  
Petition No.59849/2017)*

<i>Ch. Fayyaz-ur-Rehman Khalid.</i>	...	<i>Petitioner</i>
	<b><u>Versus</u></b>	
<i>Amir Javed and others.</i>	...	<i>Respondents</i>

Petitioner:	Ch. Fayyaz-ur-Rehman Khalid, In-person.
Respondents No. 1 and 3:	Amir Javed and Nadeem-ur-Rehman, In-person.
Respondents No. 2 and 6:	Died.
Respondents No. 4 and 5:	Nemo.
Date of Hearing:	29.07.2025.

**ORDER**

**Muhammad Shafi Siddiqui, J.** Question that arises out of the present *lis* is whether the “revisional court” exercising jurisdiction under section 115 of the Code of Civil Procedure, 1908 (‘CPC’) could reverse the discretionary findings reached by the Trial Court in exercise of its lawful jurisdiction while condoning the delay in filing of application for restoration of suit.

2. We have heard the petitioner and respondents No. 1 and 3, who are appearing in person and perused the available record. In terms of paragraph 3 of the order of the Civil Judge, Kasur dated 05.03.2016, the court found that the suit filed by the petitioner against the respondents was dismissed for non-prosecution on 04.12.2014 when the petitioner remained absent. The restoration and condonation applications disclosed that he was behind bars

from 15.05.2014 to 01.07.2015 in connection with FIR No.504/13 for offences under sections 506 and 364 of the PPC and thus was prevented to appear and unaware of the proceedings of the case nor any order was communicated to him when he was behind bars. The petitioner produced on record copy of the order dated 12.05.2015 whereby the petitioner was granted bail by the Lahore High Court in the aforesaid case. In consideration of such facts the discretion was exercised by Trial Court and the application for restoration was accepted and the delay in filing the application was condoned as the grounds mentioned therein were found plausible by court. This discretion as exercised in terms of judicial order was challenged by the respondents in revision petition filed under section 115 of the CPC.

3. Indisputably the revisional court has limited jurisdiction under section 115 CPC which includes, (a) *when trial court found to have exercised jurisdiction not vested in it by law*, (b) *failed to exercise a jurisdiction so vested*, or (c) *to have acted in the exercise of its jurisdiction illegally or with material irregularity*. Nothing of such exercise (a to c) has been expressed by the revisional court. It is to be kept in mind that revisional court cannot be substituted as appellate court to replace its own findings when findings of Trial Court are neither arbitrary or perverse to enable the revisional court to exercise jurisdiction with the frame described above. All it found, in terms of paragraph 8 was that the restoration application was barred by time. A perusal of the paper-book reveals that the application for condonation of delay under section 5 of the Limitation Act, 1908 was available which escaped the attention of the revisional court. We are not in agreement with the reasoning assigned by the learned Additional District Judge, Kasur which was appreciated by the learned High Court through the impugned order that such grounds as disclosed in the restoration application could have been considered had it been filed within thirty days of order. Had the application

been filed within thirty days, the condonation application was not required. Condonation application is filed when statutory period is lapsed. Such delay is then required to be explained in the condonation application which the petitioner did and the Trial Court was in consonance with the grounds mentioned therein when it accepted the applications both for restoration and condonation. Additionally, when a lawful jurisdiction was exercised by the Trial Court then the revisional court followed by High Court in writ jurisdiction cannot reverse it by expressing their own views over and above the lawful discretion exercised by the Trial Court unless found within frame of section 115 of the CPC.

4. For what has been discussed above, the impugned orders of the High Court and that of the revisional court are set aside and the order dated 05.03.2016 of the Trial Court is restored. The suit to be decided expeditiously in accordance with law preferably within a period of three months from the date of receipt of copy of this order. This petition is converted into an appeal and allowed in the aforesaid terms.

Chief Justice

Judge

Islamabad:  
29.07.2025

Approved for Reporting  
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