SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Justice Shahid Waheed
Justice Naeem Akhter Afghan

Civil Appeal No.359-L/2012
(Against the judgment dated 18.6.2010 passed by the Lahore High Court, Lahore in C.R.No.1756/2010).

Ali Ahmad ...Appellant(s)

Versus

Additional District Judge, Sialkot, etc ...Respondent(s)

For the Appellant(s) : Mian Abdul Quddus, ASC

Respondent Nos.3-8 : Malik Amjad Pervaiz, Sr. ASC

Date of Hearing : 18.11.2026

JUDGMENT

Shahid Waheed, J: This appeal, by leave of this Court, has been preferred by the judgment-debtor against the order dated 18.06.2010 passed by the High Court in exercise of its revisional jurisdiction under Section 115 of the Code of Civil Procedure, 1908 (CPC), whereby the objections raised by him to the execution of the decree obtained by Respondents No.3 to 8 were dismissed.

2. The precise question requiring determination in this appeal is whether the execution proceedings initiated by Respondents No.3 to 8 (hereinafter referred to as the decree-holders) were within the prescribed period of limitation. For proper appreciation of the controversy, certain undisputed facts may first be noticed. The suit instituted by the decree-holders was decreed by the trial court vide judgment and decree dated 14.10.1981. The appeal preferred against the same was dismissed on 27.11.1984. The judgment and decree of the appellate court were subsequently maintained by the High Court, which dismissed the second appeal on 30.10.2001. The appellant thereafter invoked the jurisdiction of this Court by filing a petition for leave to appeal against the judgment and decree passed by the High Court. During

the pendency of that petition, the decree-holders instituted execution proceedings on 16.06.2006 for enforcement of the decree dated 14.10.1981, as affirmed by the High Court on 30.10.2001. Subsequently, the petition for leave to appeal was dismissed by this Court on 20.12.2006.

3. Based on these facts, the appellant resisted the execution proceedings by filing objections, contending that the execution application was governed by Article 181 of the First Schedule to the Limitation Act, 1908, which prescribes a period of three years for an application for which no period of limitation is provided elsewhere in the Schedule. According to the appellant, the period of limitation commenced from 30.10.2001, when the High Court, being the court of last instance in the proceedings then pursued, dismissed the second appeal and maintained the decree in favour of the decree-holders. The execution application, having been filed on 16.06.2006, was, therefore, clearly beyond the prescribed period of three years. Conversely, the decree-holders maintained that the pendency of the petition for leave to appeal before this Court had the effect of extending or suspending the period of limitation and that limitation for execution would commence only upon dismissal of the said petition on 20.12.2006. On this premise, they defended the execution proceedings as being within time. The High Court accepted the stance of the decree-holders and declined to interfere with the execution proceedings.

4. The controversy raised before us is no longer res integra. This Court, in Anjuman Ghulaman Mustafa v. Darul Islamia Society **(PLD 2024 SC 489)**, has examined the principles governing the computation of limitation for execution of a decree where the judgment-debtor has pursued successive remedies before the superior courts, including a petition for leave to appeal before this Court. After considering the earlier precedents, particularly Maulvi Abdul Qayyum v. Syed Ali Asghar Shah **(1992 SCMR 241)**

and Bakhtiar Ahmad v. Mst. Shamim Akhtar and others **(2013 SCMR 5)**, this Court explained the distinction between the doctrine of merger applicable to appellate and revisional proceedings and the effect of merely filing a petition for leave to appeal before the Supreme Court. The relevant observations are reproduced below for facility of reference:

> "3. In the present case, the decree of the Court of first instance was first challenged in appeal and then in revision before the High Court. After exhausting all statutory remedies under the Code of Civil Procedure, 1908, none of the parties considered it appropriate to avail of constitutional remedy before this Court. In such a situation, the case of Abdul Qayyum urges us to remember that till such time, an appeal or revision from a decree is not filed, or such proceedings are pending but no stay order has been issued, such decree remains capable of execution but when the Court of last instance passes the decree only that decree can be executed, irrespective of the fact, that the decree of the lower Court is affirmed, reversed or modified. In light of this principle, the application, brought by the decree-holder/respondent for the execution of the decree cannot be held to be barred by time. It is clarified that if the decree/order passed in revision had been challenged by filing a petition for leave to appeal before this Court, the position would have been different, and the period of limitation would have been governed by the principle laid down in the case of Bakhtiar Ahmad, which expounds that unless the Supreme Court stays the proceedings of the decree or converts the petition into an appeal, the period of limitation cannot be deemed to have been clogged. Merely filing a petition for leave to appeal does not automatically extend the time for filing an execution application. However, if the leave is granted, the petition is converted into an appeal and allowed, in which case, the order of the Supreme Court will merge into the order of the lower forums and, thus, the period of limitation will start from the order of the Supreme Court. Since, in the case under consideration, the remedy before this Court was not availed of, the latter precedent does not apply to it."

The principle emerging from the above judgment is that, upon disposal of an appeal or revision by the court of last instance, the decree passed by that court becomes the operative decree for purposes of execution, and limitation is computed accordingly. However, where a petition for leave to appeal is subsequently filed before this Court, its mere pendency does not suspend the running of limitation. The period during which execution of a decree is stayed by a competent court is liable to be excluded in accordance with

Section 15 of the Limitation Act, 1908. Mere pendency of a petition for leave to appeal, without an order staying execution, does not attract this provision. Likewise, where leave is granted, the petition is converted into an appeal and the appeal is ultimately allowed, the doctrine of merger operates and limitation is computed in accordance with the order passed by this Court.

5. Applying the above principles to the facts of the present case, it is evident that the decree-holders' right to seek execution accrued, at the latest, on 30.10.2001, when the High Court dismissed the second appeal and maintained the decree in their favour. The subsequent filing of a petition for leave to appeal by the appellant did not, by itself, suspend the operation of the decree or arrest the running of limitation. Admittedly, the petition for leave to appeal was dismissed without grant of leave and, consequently, it was never converted into an appeal. Nor has any order staying the execution of the decree been brought to our notice. In these circumstances, the mere pendency of the petition for leave to appeal furnished no legal justification to the decree-holders for withholding execution proceedings or postponing the commencement of limitation. Consequently, the decree-holders cannot claim exclusion of the period during which the petition for leave to appeal remained pending.

6. Furthermore, under Section 3 of the Limitation Act, 1908, every proceeding instituted after the prescribed period of limitation is liable to be dismissed, notwithstanding that limitation has not been set up as a defence, subject to the statutory exceptions. In the circumstances, the execution application filed on 16.06.2006, being beyond three years from 30.10.2001, was plainly barred by limitation under Article 181 of the First Schedule to the Limitation Act, 1908. The subsequent dismissal of the petition for leave to appeal on 20.12.2006 could neither revive the remedy of execution, which had already become time-barred, nor provide a fresh starting point for computing limitation. We are, therefore, of

the considered view that the High Court fell into error in declining the objections raised by the appellant and maintaining the execution proceedings.

7. For the foregoing reasons, this appeal is allowed. The impugned order dated 18.06.2010 passed by the High Court is set aside. Consequently, the objections filed by the appellant are accepted and the execution application instituted by the decree-holders on 16.06.2006 is dismissed as barred by limitation.

Judge

Judge

Lahore
18.11.2026
APPROVED FOR REPORTING
Sarfraz*/