

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Yahya Afridi, HCJ
Justice Aqeel Ahmed Abbasi

Civil Appeal Nos. 348 & 349/2018 and CMA Nos.797 & 798/2025

(Against the judgment dated 27.10.2015 passed by the Lahore High Court, Lahore in C.R. No.481-D & 482-D/2001)

Muhammad Akram, etc.
(in CA No.348/2018 & CMA No.797/2025)
Nazir Hussain, etc.
(in CA No.349/2018 & CMA No.797/2025)

...Appellant/Applicant(s)

VERSUS

Mst. Nazeer Begum (decd.) thr. LRs., etc
(in both cases)

...Respondent(s)

For the Appellant/
Applicant(s):

Ch. Farrukh Mehmood Sulehria, ASC
(in both cases)

For the Respondent(s):

Nemo.
(in both cases)

Date of Hearing:

03.07.2026

JUDGMENT

AQEEL AHMED ABBASI, J.- Since a common controversy relating to period of limitation in filing appeal(s) against judgment and decree or the order passed by the Trial Court is involved, in both these civil appeals, therefore, the same are decided through this common judgment.

2. The judgments in Civil Revision No.481-D of 2001 (Mst. Nazeer Begum and other v Muhammad Akram etc.) and in Civil Revision No.482-D of 2001 (Mst. Nazeer Begum and other v Nazir Hussain etc.) both dated 27.10.2015 have been assailed through Civil Petitions for leave to Appeal No. 3090-L/2015 and No. 3091-L/2015 respectively, whereas, leave in both the cases was granted by this Court vide order dated 08.03.2018 in the following terms: -

"It is contended by the learned counsel for the petitioners that it is settled law, as laid down by this Court in the judgments reported as West Pakistan Industrial Development Corporation, Karachi vs. Aziz Qureshi (1973 SCMR 555), Fateh Muhammad and others vs. Malik Qadir Bakhsh (1975 SCMR 157) and Mian Muhammad Sabir vs. Malik Muhammad Sadqi through

Legal Heirs and others (PLD 2008 SC 577), that the time is reckoned from the date when the copy is prepared and not when the delivery is taken and in the instant case if time is calculated from the date of preparation, then the appeal filed by the respondents was barred by limitation, which aspect of the matter has not been correctly decided. It is further contended that even as per the application for condonation of delay the period from 3rd September, 1995 till 13th September, 1995 when the appeal was actually filed is also not explained, therefore, limitation could not be condoned.

2. Leave is granted, *inter alia*, to consider the aforesaid contentions of the learned counsel. Let notice be issued to the respondents. Mian Shah Abbas, learned ASC, accepts notice on behalf of respondents No.7 to 10. Previously notices had been issued to the remaining respondents i.e., respondents No.1 to 6, whose addresses are not correct. Let the petitioners furnish correct address of the said respondents who shall be served thereupon.

3. Since a short matter is involved, let the appeals be fixed for a date by the office in the last week of May, 2018. Both parties will be at liberty to file additional documents."

"..."

3. The above Civil Appeals were earlier dismissed vide order dated 13.04.2018 on account of non-prosecution however, the same were restored to their original numbers, subject to compliance with the office objections vide order dated 05.09.2018. Record shows that notices were issued to the respondents and served through publication in Newspapers, pursuant to which, Mian Shah Abbas, ASC shown appearance on behalf of respondents No.7 to 10 in both the cases, whereas, no one appeared on behalf of respondents No. 1 to 6 as reflected from the leave granting order dated 08.03.2018. However, thereafter, the learned counsel for the respondents did not show appearance on various dates of hearing when the matter was fixed in Court from time to time. Today also, when the matter is taken up for hearing, except learned counsel for the appellants, no one has shown appearance on behalf of respondents nor any intimation received, therefore, this Court is left with no other option, except to decide both the above Civil Appeals, which are pending since 2018, with the assistance of the learned counsel of the appellants and on the basis of record available in instant appeals. Though, instant Civil Appeals arise out of two different judgments in Civil Revision No.481-D/2001 and 482-D/2001 Passed by the learned Single Judge of the Lahore High Court on 27.10.2015, however, a common point of limitation of filing appeal(s) against the order dated 03.07.1995, is involved in both these appeals, which has to be resolved by this Court as per relevant

provision(s) of Limitation Act, 1908 applicable to the peculiar facts and circumstances of both these cases, and also in the light of leave granting order as referred to hereinabove.

4. It is an admitted position between the parties that judgment and decree in the instant matter was passed on 07.11.1979 in favour of the respondents, who filed execution petition before the executing court, whereupon, the suit land was transferred through a registered document under the orders of the Court. The appellants before us filed objection petitions before the Executing Court, claiming themselves as *bona fide* purchasers of the suit land, which was allowed vide order dated 03.07.1995. As per record, the respondent(s) filed an application to obtain certified copy of the aforesaid order on 05.07.1995 which was supplied to the respondent(s) on 04.09.1995. It is pertinent to note that Civil Courts were closed due to holidays w.e.f. 01.08.1995 to 09.09.1995, however, respondent(s) preferred not to file the appeal(s) during vacation or on the opening day of court, and filed Civil Appeal No.73/14 and Civil Appeal No. 74/16 of 1995/2000 on 12.09.1995 and 13.09.1995 respectively. Under Article 152 of the Limitation Act, 1908, an appeal can be filed within a period of thirty (30) days from the date of judgment and decree or the order appealed against. The precise issue before the Appellate Court as well as the Revisional Court was to calculate the period of limitation available to the respondent(s) in these Civil Appeals, keeping in view the peculiar facts, and the provisions of Article 4 and 12(5) of the Limitation Act, 1908.

5. It will be advantageous to reproduce the aforementioned Articles for the sake of brevity: -

“Article 4: Where Court is closed when period expires. Where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day that the Court re-opens.

Article 12(5): For the purposes of sub-sections (2), (3) and (4), the time requisite for obtaining a copy of the decree, sentence, order, judgment or award shall be deemed to be the time intervening between the day on which an application for the copy is made and the day actually intimated to the applicant to be the day on which the copy will be ready for delivery.”

6. From perusal of Article 4 of the Limitation Act, 1908 it has been noted that for the purposes of calculating the period of limitation for institution of any suit, filing an appeal or an application, if expired on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the date the Court re-opens. Whereas, Article 12(5) of the Limitation Act, 1908 provides that the time intervening between the day on which an application for the copy is made and the day actually intimated to the applicant on which the copy is ready for delivery, has to be excluded for the purposes of calculating the period of limitation to prefer an appeal against a judgment, decree or order as the case may be. In the instant cases, admittedly, the period of thirty days provided for filing appeal against judgment and decree or an order passed by the Civil Court, already expired during vacation, whereas, the certified copies were already obtained. Therefore, without commenting on the issue of exclusion of time consumed for obtaining certified copies as per Article 12(5) of the Limitation Act, 1908 as noted in leave granting order, we would only examine the issue of limitation in the light of Article 4 of the Limitation Act, 1908 attracted in the instant cases, for the reason, that period of limitation (thirty days) provided for filing appeal against an order or judgment and decree, expired during vacation. In such an eventuality, an aggrieved party is left with only one option to file the appeal on the **first day when the Court re-opens**, in order to overcome the expiry of limitation during Court Holidays. In case, appeal is not preferred on the first day when the Court re-opens, the benefit of Article 4 of the Limitation Act, 1908 will not be available to such party, as it would cease to exist on the expiry of first day when court re-opens. In the instant cases, the Civil Court remained closed during 01.08.1995 to 09.09.1995, however, 10.09.1995 was Sunday (holiday), therefore, **the first opening day of the Court was 11.09.1995**. The appeals were admittedly filed on 12.09.1995 and 13.09.1995 respectively, after expiry of period of limitation (first day when court re-opens i.e. 11.09.1995). As per record, no reasonable explanation whatsoever for condonation of delay was furnished before the appellate court or the High Court in this regard. It has been observed that the learned Single Judge of Lahore High Court, while deciding both the Civil Revision Applications, has focused on the provisions of Article 12(5) of the Limitation Act, 1908 only, which relate to the exclusion of time

consumed for obtaining certified copies for the purposes of limitation to file appeal, which was not relevant to calculate the period of limitation in these cases. The learned Single Judge of Lahore High Court has wrongly applied the ratio of the cited judgment i.e. Province of Punjab through Collector Gujrat, etc. v. Muhammad Saleem and others (2015 P.S.C.561 also published as **PLD 2014 SC 783**), while setting aside both the judgments, as the same is not attracted to the facts of instant appeals. The ratio of the above cited judgment attracted to the facts of both these appeals is reflected in para-5 of the judgment in following terms: -

"In the given situation when the District Courts were/are admittedly closed for ordinary and routine work, and only urgent matters are entertained and allowed hearing by the duty judge(s), and the urgency is pressed by the litigant to approach the Court for securing some interim relief, it shall for all intents and purposes be deemed that the suit/appeal has been filed on the date of the re-opening of the Court, and the bar of limitation shall not attract to such case, rather the benefit of Section 4 shall automatically extend to such litigant. This resolution of the proposition in hand is duly and aptly applicable to the case of the appellant."

7. Keeping in view hereinabove facts and circumstances of instant cases, we are of the opinion that the impugned judgments dated 27.10.2015 passed by the learned Single Judge of the Lahore High Court, Lahore in both the Civil Revisions are erroneous in law and facts, however, to the extent of limitation only. Accordingly, both the impugned judgments are hereby set aside, and the order(s) of the Additional District Judge Multan dated 15.12.2000 and 16.12.2000 respectively, are hereby restored, however, for the reasons as recorded hereinabove. Instant Civil Appeals are allowed in the above terms.

Chief Justice

Judge

ISLAMABAD

03.07.2026

"Approved for Reporting"

Zainab Bashir/LC

