JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Civil Revision No.13 of 2023

Saeed Ahmed
Vs.
Murtaza Ali Punjwani and others

Petitioners by:	Rana Muhammad Irshad Khan, Advocate.
Respondent No.1 by:	Mr. Muhammad Yasir, Advocate.
Respondent No.2 by:	Rao Sabir Hussain, Advocate.
Respondents No.3 & 4:	Ex-parte
Date of Hearing:	**03.06.2025.**

INAAM AMEEN MINHAS, J:- Through the instant civil revision, the petitioner has assailed the order dated 24.01.2023 **("Impugned Order")**, passed by the learned Additional District Judge, East-Islamabad **("Appellate Court")**, whereby the appeal filed by the respondents was allowed.

2. The brief facts of the case are that the petitioner filed a suit for specific performance of an agreement to sell dated 4.06.2014, which the respondents contested through a written statement. During the proceedings on 26.03.2015, Mr. Sabir Hussain Rao, Advocate appearing on behalf of the respondents made his statement in favour of the petitioner's claim admitted the agreement to sell dated 04.06.2014 subject to remaining payment and offered that if the petitioner pays the remaining sale consideration of Rs.3,09,00,000/- within seven days, then the respondents would have no objection to the passing of the decree. The learned Trial Court, based on the statement, issued the conditional decree dated 26.03.2015 in favour of the petitioner. The petitioner did not deposit the remaining amount within 7 days as per

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order and decree dated 26.03.2015 and filed an application for extension in time to deposit the remaining sale consideration amount (Rs.3,09,00,000/-), which was dismissed vide order dated 04.04.2015. Feeling aggrieved the petitioner filed Civil Revision No. 150/2015, before this Court, which was disposed of vide order dated 13.11.2019 as being infructuous since the respondents acknowledged receipt of the payment. Subsequently a review petition was filed by the petitioner against the order dated 13.11.2019 passed in Civil Revision No.150/15, which was dismissed on 28.09.2021. The petitioner filed an execution petition on 10.06.2021. The respondents filed an objection petition on the ground of limitation, which was dismissed vide order dated 19.01.2022. Against which the respondents filed an appeal before the learned Appellate Court, which was allowed through the Impugned Order in the manner that the objection petition is accepted and the execution petition is dismissed, hence, this civil revision.

3. The learned counsel for the petitioner contended that the learned Appellate Court, while passing the Impugned Order, misinterpreted the law and facts, leading to a flawed decision; that the learned Appellate Court failed to consider the continuity of the suit and wrongly decided the issue of limitation, despite the respondents' joint statement made on 13.11.2019 in Civil Revision No. 150/2015; that the respondents are now taking a contradictory stance, which they are legally barred from doing so; that the Appellate Court also failed to consider relevant case record and did not consider the effect of the order dated 13.11.2019 passed in C.R. No.150/15 and thereafter order dated 28.09.2021; that the Impugned Order, having been hastily passed and lacking proper reasoning, is unsustainable and deserves to be set aside.

4. On the other hand, the learned counsels for respondents No.1 & 2 fully supported the Impugned Order and contended that the execution petition was hopelessly time-barred and the learned Appellate Court, after appreciating the entire record and the law rightly decided the matter.

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5. I have heard the arguments of the learned counsel for the parties and gone through the record.

6. As per the record, an order and decree was passed on 26.03.2015 by the learned Trial Court on the following terms:-

> *"This suit coming on this day for final disposal before me in the presence of Mr. Waseem Zafar Advocate for plaintiff and Rao Sabir, Advocate for the defendant. The suit of the plaintiff stands decreed subject to deposit of remaining sale consideration i.e. Rs. 3 Crore 9 lacs within 07 days positively, failing which this order shall cease to exist."*

7. The petitioner failed to comply with clear direction of the learned Trial Court dated 26.03.2015, which required him to deposit the remaining sale consideration within seven days. Instead of making the required deposit, the petitioner filed an application on 02.04.2015 seeking additional time to deposit the remaining consideration as per order dated 26.03.2015. However, the learned Trial Court, after considering the matter, dismissed the application for extension of time through an order dated 04.04.2015, indicating that the petitioner had not shown sufficient cause for the delay or any justified reason. Aggrieved by this decision, the petitioner filed Civil Revision No. 150/2015 before this Court, which was disposed of vide order dated 13.11.2019. Still dissatisfied, the petitioner then filed Review Petition No. 11/2020 in an attempt to revisit the revisional order. However, this review petition was dismissed on 28.09.2021. This sequence of events reflects a consistent judicial stance that the petitioner's application for extension of time to deposit the remaining sale consideration as per order of the learned Trial Court was not allowed and the conditional order and decree dated 26.03.2015 remained intact.

8. On 10.06.2021, the petitioner filed an execution petition seeking enforcement of the order and decree originally passed on 26.03.2015. In response, the judgment debtors/respondents raised specific objection that the execution petition was barred by limitation, meaning it was

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filed beyond the legally prescribed period. Despite the objection, the learned Executing Court held that the petition was maintainable and allowed it to proceed while dismissing the objection petition vide order dated 19.01.2022. However, the respondents being dissatisfied with this decision of the learned Executing Court filed an appeal. The learned Appellate Court vide the Impugned Order accepted the appeal and reversed the order of the learned Executing Court, clearly holding, particularly in paragraph 10 of the Impugned Order that the execution petition was indeed time-barred.

9. The sequence of events makes it abundantly clear that the original order and decree dated 26.03.2015 were never directly challenged by the petitioner through any legal remedy, such as appeal, review, or revision. As a result, the order and decree attained finality in the eyes of the law. However, since the petitioner failed to fulfill the sole and express condition of depositing the remaining sale consideration within seven days, the order and decree became ineffective due to non-compliance. In legal terms, no executable decree came into existence in favour of the petitioner because the decree was conditional and the condition was not met. Thus, after the lapse of seven days without compliance, the order and decree lost their legal enforceability and became inoperative. Therefore, there is no surviving decree capable of being executed in the petitioner's favour and any attempt to seek execution of such a non-existent decree is legally untenable.

10. Even if one assumes, merely for the sake of argument that the decree in question was capable of being executed, the legal requirement concerning the limitation period must still be addressed. While not all types of decrees have specifically defined time limit for execution, the law fills such gaps through the application of Article 181 of the Limitation Act, 1908. This provision stipulates that, in cases where no specific period is prescribed, a party must initiate execution proceedings within three years from the date, the right to apply accrues.

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In the present case, the learned Trial Court passed the order and decree on 26.03.2015. Since this decree was never challenged, modified, reversed, or stayed by any competent Court, it became final and binding from that date, therefore, the limitation period for filing the execution petition began on 26.03.2015 itself. However, the petitioner filed the execution petition on 10.06.2021, which was beyond the three-year statutory limitation period and no valid reason was put forth for filing the execution petition after expiry of the limitation period. The learned Appellate Court rightly allowed the appeal, dismissed the execution petition being time-barred, as it was filed long after the legally permissible period. In this regard reliance is placed on ***Abdul Qayyum vs. Ali Asghar Shah,*** **(1992 SCMR 241)** and ***Bakhtiar Ahmed vs. Shamim Akhtar,*** **(2013 SCMR 5)**

11. In the light of foregoing discussion, the Impugned Order has been passed in accordance with law, which does not suffer from any illegality or jurisdictional defect. Consequently, the instant civil revision is **dismissed** being devoid of merits.

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 07.07.2025

JUDGE

R.Anjam.

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