JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

REGULAR FIRST APPEAL NO. 84 OF 2025

COMSATS UNIVERSITY, ISLAMABAD

Vs

MUHAMMAD UMAIR NARU & ANOTHER

Appellant by	**:**	**Mr. Altaf A. Banday, Advocate.**
Respondents by	**:**	**Mr. Karim Nawaz Abbasi, Advocate.**
Date of hearing	**:**	**12.06.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Regular First Appeal, the Appellant [COMSATS University, Islamabad] has challenged the Judgment and Decree dated 30.05.2024 (**"Impugned Judgment and Decree"**) passed by the learned Civil Judge 1st Class, Islamabad-East (**"Trial Court"**) in a suit for recovery of PKR 5,076,151/- and 25% as penalty of the total amount, along with interest at the prevailing rate, filed by the Appellant/Plaintiff.

2. The brief facts of the case as per the contents of the plaint are that Respondent No.1 was appointed as a Lecturer in the Department of Computer Science at COMSATS University, Islamabad Campus, in 2009. In 2010, he applied for study leave under the University's "Incentives for Faculty Desirous of Advanced Education" scheme to pursue a Ph.D., which was provisionally approved. He was granted paid study leave and executed a Deed of Agreement dated 01.02.2011, committing to complete his Ph.D. within four years and serve the University for an additional four years thereafter. To secure this obligation, Respondent No.2 signed a Guarantee Bond, pledged his property, and provided proof of financial soundness. The Agreement further stipulated that failure to complete the Ph.D. or serve the post-study term would render the Respondent No. 1 liable to reimburse all expenses incurred, along with a penalty. Respondent No.1 availed paid leave from 14.02.2011 to 13.02.2015 but failed to complete his Ph.D. He later chose to discontinue his studies and was allowed to rejoin, subject to monthly salary deductions to recover the expenses. The University also waived the penalty. Despite agreeing, Respondent No.1 neither resumed duty nor made any

repayment. Accordingly, both Respondents became jointly and severally liable to repay PKR 5,076,151/- as tuition and salary expenses, along with a 25% penalty. Hence, the University filed a recovery suit.

3. After issuance of notices, the Respondents/Defendants appeared before the Court through their counsel and contested the suit by filing a written statement. Out of divergent pleadings of the parties, the learned Trial Court framed issues vide Order dated 18.02.2020, and the matter was fixed for evidence. Asif Mushtaq (representative of Appellant/Plaintiff) appeared in the witness box as PW-1, recorded his statement, and produced certain documents as Ex.P1 to Ex.P22. Respondent No.1/Defendant No.1, namely Muhammad Umair Naru, appeared in the witness box as DW-1 and produced documents as Ex.D-1 to Ex.D-3. After hearing arguments of learned counsel for the parties, the learned Trial Court vide the Impugned Judgment and Decree, dismissed the suit of the Appellant/Plaintiff**.**

4. Being aggrieved of the Impugned Judgment and Decree, the Appellant/Plaintiff has filed the instant Regular First Appeal.

5. The learned counsel for the Appellant/Plaintiff argued that Respondent No.1 was bound to complete his Ph.D. within a maximum period of four years; that Respondent No.1 was granted study leave with full pay and subsequently time was extended till 13.02.2015, but he failed to do so. He made a request for rejoining the University, which was allowed subject to an undertaking whereby he had to pay back the requisite amount as agreed under the agreement; that the Impugned Judgment and Decree suffers from serious illegalities and irregularities and has not been passed in lawful, just and proper exercise of jurisdiction by the learned Trial Court. Hence, the same is liable to be set aside. Lastly, the learned counsel requested that the instant Appeal may kindly be allowed and the Impugned Judgment and Decree passed by the learned Trial Court may be set aside and the suit for recovery may be decreed as prayed for.

6. The Learned counsel for the Respondents contended that the learned Trial Court has rightly passed the Impugned Judgment and Decree, which needs no interference by this Court; that the **I**mpugned Judgment and Decree is well-reasoned and has been passed keeping in view the evidence available on the record; that there is no illegality or irregularity in the Impugned Judgment and Decree. Finally, it is prayed that the titled Appeal may be dismissed.

7. The learned counsel for the parties have been heard and record perused with their able assistance.

8. This Regular First Appeal is filed by the Appellant/Plaintiff, and arises out of its suit for recovery of PKR 5,076,151/- and 25% as penalty of the total amount along with interest at the prevailing rate. This recovery claim was mainly based on two documents. The first is an unregistered agreement Ex.P8/1 entered into between Muhammad Umair Naru (Respondent No.1) and COMSATS Institute of Information Technology, Islamabad Campus (Appellant/Plaintiff) for the award of scholarship under the in-house Ph.D. program, and the second is a registered surety bond Ex.P8/2 signed by Dr. Iftikhar Ahmed Naru (Respondent No.2). It was alleged that Respondent No.1 received the scholarship money but did not complete the course, and therefore both Respondents jointly and severally became liable to refund the total amount of expenditure of the scholarship along with the penalty. The Respondents, in their written statements, contested the suit by raising the objection that while receiving in-house study leave with pay, Respondent No.1 was not required to undertake any responsibility, but the Appellant/Plaintiff imposed further teaching responsibilities upon him during his leave period, due to which he could not complete his Ph.D.

9. The Respondents, in their written statements, besides other objections, raised the objection of limitation, which was material in nature. Thus, the learned Trial Court addressed it through Issue No. 4 and decided it in Issue No. 1, ruling that the suit is barred under the law of limitation. Hence, there was no need to further dilate upon the factual aspects of the dispute between the parties.

10. The Appellant/Plaintiff awarded an in-house Ph.D. scholarship to Respondent No.1 and initially allowed leave with pay from 14.02.2011 to 30.06.2011, which was extended from time to time till 13.02.2015. The Appellant/Plaintiff alleged that Respondent No.1 failed to complete his in-house Ph.D. program within the said period. The last extension in study leave was granted until 13.02.2015, which indicates that the date of alleged breach of the agreement is 13.02.2015, as Respondent No.1 failed to complete his Ph.D. degree within the period stipulated in the agreement (Ex.P8/1). According to Article 115 of the Limitation Act, 1908 the period of limitation is three years in cases for compensation for breach of any contract not in writing registered, and it starts to run when the contract is broken or breached. In the instant case, the contract/deed of agreement was breached by Respondent No.1 on 13.02.2015, and the

Appellant/Plaintiff was required to file the suit within three years, i.e., till 13.02.2018, but the instant suit was instituted on 27.07.2019, with an unexplained delay of almost one year and five months. Similarly, Respondent No.2, who was the guarantor, also allegedly breached the terms of the Guarantee Bond Ex.P8/2. In respect of the said Guarantee Bond, Article 65 of the Limitation Act, 1908 will be applicable, which states that the period of limitation for compensation for breach of a promise to do anything at a specified time or upon the happening of a specified contingency is three years, and it shall start to run from the date when the time specified arrives or the contingency happens. In the instant case, the contingency, i.e., the breach of the terms and conditions of the agreement Ex.P8/1, occurred on 13.02.2015, after which the Appellant/Plaintiff could raise a claim against Respondent No.2 within a period of three years. However, again, there is the same delay.

11. The learned counsel on behalf of the Appellant/Plaintiff argued and took the stance that Respondent No.1 was in constant contact with the Appellant/Plaintiff and was negotiating on different dates till 2019, due to which the Appellant/Plaintiff finally filed the suit on 27.07.2019, which is well within time. This contention is not accepted, as under Articles 65 and 115 of the Limitation Act, 1908 the time period starts when the contract is broken or breached, and not from the time when the Respondents deny their claim. Admittedly, the contract/deed of agreement was breached by Respondent No. 1 on 13.02.2015, and according to Articles 65 and 115 of the Limitation Act, 1908, the Appellant/Plaintiff had to file suit within a period of three years from the date of breach.

12. Hence, in light of the above discussion, this Court is of the view that the learned Trial Court has rightly decided the point of limitation and there is no ground agitated that could necessitate interference by this Court. Resultantly, the instant Regular First Appeal is **dismissed**, being misconceived and devoid of any merits.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the Open Court on _____ day of June, 2025.

JUDGE

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