ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

C.R.No.115 of 2018
Pakistan Broad-Casting Corporation (Radio Pakistan) and others
Versus
Ch. Manzoor Hussain and others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	22.10.2020	**Ms. Shaista Altaf, Advocate for the petitioners** **Ch. Muzammal Din Gujjar, Advocate for the respondents**

Through the instant civil revision petition, the petitioners impugn the judgment and decree dated 14.12.2017 passed by the Court of the learned Additional District Judge (East), Islamabad, whereby the petitioners' appeal against the judgment and decree dated 26.09.2017 passed by the Court of the learned Civil Judge, Islamabad was dismissed on the ground of limitation.

2. Learned counsel for the petitioners submitted that the learned Appellate Court did not take into account the fact that the application for the certified copy of the judgment and decree dated 26.09.2017 was filed on 16.10.2017, and copy of the same was prepared on 23.10.2017; and that if the time between the application for the certified copy and the preparation of the certified copy is excluded, the petitioners' appeal was within the limitation period for filing an appeal under Article 152 of the Limitation Act, 1908. Learned counsel for the petitioners prayed for the revision petition to be allowed and for the matter to be remanded to the learned Appellate Court for a decision afresh on the merits of the case.

3. On the other hand, learned counsel for the respondents submitted that a Court is to see only the certified copy of the judgment and decree filed by the petitioners along with the appeal and not any other

certified copy that the petitioners may have obtained; that on 30.10.2017, the reader of the learned Appellate Court noted that the petitioners' appeal was time barred; that after the matter was adjourned by the learned Appellate Court on several occasions, the petitioners filed an application for condonation of delay; that the certified copy of the judgment and decree filed with the appeal shows that the application for the certified copy was made on 28.10.2017 and the certified copy was prepared and delivered on 28.10.2017; that this makes the petitioners' appeal barred by four days; and that the appellate judgment and decree dated 14.12.2017 does not suffer from any legal infirmity. Learned counsel for the respondents prayed for the revision petition to be dismissed.

4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. The learned Appellate Court dismissed the petitioners' appeal against the judgment and decree dated 26.09.2017 only on the ground that the appeal was time barred. The learned Appellate Court refrained from delving into the merits of the case.

6. The petitioners' case was that if the time consumed in obtaining the certified copy of the judgment and decree passed by the learned Trial Court (i.e. between 16.10.2017 and 23.10.2017) is excluded from the limitation period of thirty days for filing an appeal before the District Court, the petitioners' appeal could not have been dismissed as time barred.

7. Now, along with the memo of appeal filed by the petitioners before the District Court, the petitioners had appended the certified copy of the judgment and decree dated 26.09.2017 passed by the learned Civil Court. The stamp on the decree shows that application No.11329 for the certified copy of the judgment and

decree was submitted on 28.10.2017 and the certified copy was prepared and delivered on the same very day, i.e. 28.10.2017.

8. The respondents' case is that the certified copy of the judgment and decree, which was filed along with the memo of the appeal was the relevant document to be taken into consideration in order to determine whether or not the appeal was time barred.

9. In the case of A. Ghafoor Vs. Mst. Amina Fatima (1985 CLC 1801), the Hon'ble Mr. Justice Tanzil-ur-Rehman (as he then was) speaking for the Hon'ble High Court of Sindh held as follows:

> ***"After careful consideration of the several decisions of the Indian Jurisdiction, as referred to above, I am clear in my mind that what is required under section 12 (2) of the Limitation Act, 1908 is the time requisite for obtaining copy for purposes of exclusion from the period of limitation prescribed under law for filing appeal or an application for leave to appeal or an application for review of judgment will be calculated on the basis of certified copy filed by the appellant or the applicant alongwith the memo of appeal or application, as the case may be. The Court has nothing to do with any other copy obtained by the appellant/applicant and filed alongwith the memo of appeal/application, because, in that case, the Court will have to hold an enquiry whether any other copy was obtained by the appellant which is not warranted by law. The language of section 12(2) of the Limitation Act does not spell out any such requirement or obligation on the part of the Court. ....."***

10. In the case of Azad Government of the State of Jammu and Kashmir Vs. Abdul Latif (PLD 1983 S.C. (AJ&K) 70), it was held *inter alia* that only the time spent in obtaining a copy of the judgment actually used in the appeal or petition is to be added to the normal limitation period and no time previous to the announcement of the judgment can be so added.

11. Vide order dated 16.09.2020, this Court directed the office to requisition the record of the case from the learned Appellate Court. The certified copy of the judgment and decree dated 26.09.2017 shows that application No.11329 for the certified copy of the said

judgment and decree was submitted on 28.10.2017 and the same was prepared and delivered on 28.10.2017. Due to this, the petitioners were not entitled to any exclusion of time from the limitation period of thirty days for filing an appeal. No benefit can be gained by the petitioners for the delay in the provision of the certified copy of the judgment and decree which had not been filed along with the memo of the appeal.

12. In view of the above, I do not find any jurisdictional irregularity in the impugned judgment and decree dated 14.12.2017 passed by the learned Appellate Court. Consequently, the instant civil revision petition is dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Ahtesham*

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