IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:
MR. JUSTICE MIAN SAQIB NISAR
MR. JUSTICE GULZAR AHMED
MR. JUSTICE MAQBOOL BAQAR

CIVIL APPEALS NO.1646 & 2000/2006 AND CIVIL PETITION NO.782-K/2009
(Against the judgment dated 18.2.2009, 10.8.2006 of the High Court of Sindh, Karachi passed in C.P. No.D-2659/1994, C.P. No.34-D/1995)

M/s MFMY Industries Ltd. ...in C.A.1646/2006
M/s Sapphire Textile Mills Ltd. ...in C.A.2000/2006
M/s Gatron Industries Ltd. ...in C.P.782-K/2009
...Appellant(s)

VERSUS

Federation of Pakistan through M/o Commerce etc. ...in C.A.1646/2006
Pakistan through Secretary M/o Finance etc. ...in C.A.2000/2006
Pakistan through Secretary M/o Finance etc. ...in C.P.782-K/2009
...Respondent(s)

For the appellant(s): Mr. Tariq Javed, ASC
(in C.A.1646/2006)

Mr. Abdul Ghaffar Khan, ASC
(in C.A.2000/2006)

For FBR: Mr. M. Bilal, Sr. ASC
Raja Abdul Ghafoor, AOR

Departmental Representative: Imran Mehmood, MCB

For Federation: Mr. Sohail Mahmood, D.A.G.

Date of hearing: 21.04.2015

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JUDGMENT

MIAN SAQIB NISAR, J.-

CIVIL APPEALS NO.1646 & 2000/2006:

These appeals are being disposed of on a short point i.e. whether the impugned judgment passed by the learned High Court is proper judicial dispensation or otherwise. The relevant facts in this context are:- the appellants filed constitution petitions before the learned High

Court of Sindh, whereby they assailed the imposition of import fee enforced through certain SROs on various grounds and also sought relief of refund of the amount already paid by them to the Customs Department on account of the above. The hearing in the matters took place on 22.3.2005 and 4.5.2005 respectively and the judgment was reserved, which was ultimately announced on **10.8.2006** after a lapse and delay of almost one year and three months. The appellants had challenged the said judgment herein and leave was granted, *inter alia*, on the point(s) that since the impugned judgment had been passed in the matters after an inordinate delay, whether it was a case fit for remand of the matters to the learned High Court for hearing and decision afresh.

2. Learned counsel for the appellants while arguing these appeals has confined today to the said point and submitted that because of such a long delay, the judgment in question is invalid and improper judicial dispensation and on this score alone the same *(judgment)* stands vitiated. **This is the proposition requiring resolution *vide* the present verdict.**

3. Heard. Before dilating upon the proposition in hand, I feel constrained to briefly highlight the importance of judiciary/judicature as a vital component of the State. A State, as understood today, constitutes three foundational organs i.e. Legislature, Executive and Judicature. In ordinary parlance, these *(organs)* are also known to be the three pillars of the State. The political philosophers, jurists, constitutional experts and even judicial opinions pronounced all over the world *(specially in the countries having the democratic system/set up for governance)* are unanimous in their views that the entire structure of the State is founded, built upon, and secured only on account of the said pillars. And due to lack/absence or imbalance in respect of any of these organs/pillars, the very concept of State is periled and its existence is put at risk.

The main object and function of the legislative branch of the State is to make laws, which *(laws)* obviously define and prescribe the rights and obligations of the citizens/persons and the duties of the State; these laws ordain the functions which the State can and has to perform vide various organs thereto. The legislative limb also enables a broader mechanism for State governance by drawing policies and issuing and passing resolutions on numerous important aspects expedient for the effective functioning of the State. It may also provide for a machinery through which laws and directives etc. are or should be implemented and enforced. It *(legislature)* formulates and constitutes the positive **law** of the State.

Whereas the object of executive is to not only carry out and run the affairs of the State in accordance with the laws made by the legislature and any policy/direction given to it, but also comply with laws, follow the established rules, norms and standards expedient and necessary for the due administration of the State. Thus, it *(executive)* is responsible for the governance of the State and for carrying out its affairs in consonance with the **Rule of law**.

According to the Constitution of Islamic Republic of Pakistan, 1973 *(the Constitution),* the executive authority of the Federation shall be exercised in the name of the President by the Federal Government, consisting of the Prime Minister and the Federal Minister. The executive authority shall act through the Prime Minister who shall be the Chief Executive of the Federation *(see Article 90 of the Constitution)*. Furthermore President shall appoint Federal Ministers and Ministers of State from amongst the members of Majlis Shoora on the advice of the Prime Minister *(see Article 92)*. Thus it is clear that the top echelon of the State administration comes into being through and from the Parliament, which comprises of the chosen representatives of the people. These chosen representatives simultaneously

act as the legislators and the administrators. The administrative/executive branch, having thus been elected by the people of State, while performing its functions keeps in view its political expediencies, the commitments made to the electorate *per* its manifesto and the policies which seem necessary in its own judgment for its future political interests; *inter alia* for these factors and in the exuberant pursuit of its goals, the executive may compromise the well established rules of governance which not only results in misuse and abuse of authority, but may also lead to violation of the rights of the citizens consciously or inadvertently or cause violation of the social, economic and political rights of the people in general or in particular of those who do not agree with the government in power.

Anyhow, as highlighted above, according to the constitutional setup of our country, executive primarily emanates out of the legislative branch of the State i.e. out of the chosen representative of the people, therefore, there remains no strict separation of power between the legislature and the executive. Rather practically there is considerable harmony and also collaboration between these two branches of the State. These branches at times support and bolster each other and while they do so, the possibility that either of the two branches exceeds its jurisdiction and empowerment or misuses the same cannot be ruled out. For example, on account of some executive expediency, the legislature, on the behest of the executive, may pass certain laws, which otherwise may not conform to the parameters *(ultra vires)* of constitutionality, but are simply promulgated with the object of meeting executive exigencies. Likewise, the elements of abuse, excessive use of power, arbitrary exercise of power, whimsical, non-transparent, unfair and unreasonable action(s) on part of the executive including the violation of fundamental rights have been commonly noticed and also interfered with by the judiciary to protect and safeguard the rights of the

citizens/persons, who are affected on account of such abuses and misuses. It is in the aforementioned circumstances that where the legislature or the executive branch has erred in the exercise of its jurisdiction and is responsible for any of the deviations indicated above, that an affected person for the purposes of seeking redressal of his grievance against such wrong and/or for enforcing his rights under the law, including his fundamental rights as enshrined in the Constitution, comes forth to the judicature by knocking at its door *(note: in the context of above, I am purposely not making reference to any private litigation between two individuals)*. This is the last resort for a beleaguered and aggrieved person. It is thus that the judicature is conceived, perceived and is meant to act as the final arbiter not only *vis-à-vis* the interpretation of the Constitution, the statutory law(s), but is to also ensure that **RULE OF LAW** is adhered to and the rights of the citizens/persons approaching the courts are determined and enforced against the Might of the State. It is commonly and jurisprudentially known all over the republican and democratic world that the courts are the guardians of the Constitution and are responsible for preserving and securing the rights of the aggrieved citizens/persons as against the State.

The discussion above briefly provides for the importance of the judicial branch of the State. Besides, the pivotal, cardinal and important role of the judicature can be assessed from the quote of Hazrat Ali (R.A.) who avowed *"a society with kufr may be sustained but not the one where there is injustice"*. In **Asma Jillani's case (PLD 1972 SC 139 @ 182)**, Chief Justice Hamood-ur-Rahman while impressing upon the role of judiciary remarked *"It is this that led Von Hammer, a renowned orientalist, to remark that under the Islamic system the law rules through the utterance of justice, and the power of the Governor carries out the utterance of it"*. I am also reminded to mention here *(as it is commonly known, but I have no authentic version of it)*, that during the second world war, a

question was posed to Winston Churchill, Britain Prime Minister, whether Britain would win the war or not, he responded to the effect that if there was a functional judiciary in Britain, there was no doubt that Britain would win. Once Justice Thurgood Marshall, Judge of the Supreme Court of the United States of America while commenting on the importance of the judiciary remarked, *"The greatest scourge an angry Heaven ever inflicted upon an ungrateful and a sinning people was an ignorant, a corrupt, or a dependent judiciary"*. In furtherance to this, I would also like to add here that judiciary which lacks courage to do justice without fear and favour, is biased, suffers from the vice of self-interest, is tardy, indolent and incompetent and has no urge, will, passion and ability to decide the cases/disputes before it expeditiously, it falls in the romance of aggrandizement and populism is a danger to the State and the society. Whereas, a great virtue of a judicial functionary is that he applies the rules of balancing and proportionality while performing his functions and discharging his duties.

Provided above, are some good illustrations of the importance and significance of the judiciary in a society and within a State. I may like to add here that one of the most important differences between developed countries on one hand and developing or under developed countries on the other is the respect for, adherence to and enforcement of THE RULE OF LAW. I have no doubt in my mind that this ideal can only be achieved through an independent and capable judiciary, which is beyond the reach, control and influence of other branches of the State. The judicature has to act as a natural umpire who keeps a check on the exercise of power by other organs of the State so as to ensure that the rights of citizens/persons are not affected and trampled contrarily to law.

4. In view of the above discourse, when the judiciary enjoys such a special position, privilege and status in the functioning of the State, it is

also saddled with the onerous duty of discharging its functions efficiently, effectively and with utmost diligence and care. One of the responsibilities in this context, universally known, is the duty of the Judge to decide the cases expeditiously, because it is a known jurisprudential concept that *"justice delayed is justice denied"*. The courts must, thus, exercise all the authority conferred upon them to prevent any delays which are being caused at any level by any person whosoever. I am mindful of the fact that in any litigation there are certain procedural implications without which there shall be no discipline left for the regulation of a *lis* before a court. These procedural and legal aspects of the matter are equally important, which must be followed in letter and spirit. However, barring such time that is consumed for adherence with these legal and procedural aspects, the courts are bound to decide the matter as promptly as possible especially once the trial and the hearing of the case(s) is complete *(note: in the trial case)* and in appeals, revisions and constitutional matters, once the hearing of the matter *(when arguments are concluded)* has taken place and has been concluded.

5. Termination of a *lis* undoubtedly is through a verdict of a court which is a **decision** disposing of a matter in dispute before it *(the Court)* and in legal parlance, it is called a "**JUDGMENT"**. It is invariably known that a Judge finally speaks through his judgment. According to Black's Law Dictionary, a judgment has been defined to mean *"A court's final determination of the rights and obligations of the parties in a case"* and *per* Henry Campbell Black, A Treatise on the Law of Judgment *"An action is instituted for the enforcement of a right or the redress of an injury. Hence a judgment, as the culmination of the action declares the existence of the right, recognizes the commission of the injury, or negatives the allegation of one or the other. But as no right can exist without a correlative duty, nor any invasion of it without a corresponding obligation to make amends, the judgment necessarily affirms, or else denies, that such a duty or such a liability rests upon the person against whom the aid of the law is invoked"*. These definitions

are adequately self-explanatory. In our procedural law *(civil)*, judgment as defined in Section 2(9) of Code of Civil Procedure means *"the statement given by the judge of the grounds of a decree or order"*. It should be emphasized here that a judgment should supply adequate reasons for the conclusion reached and arrived at and should be reflective of application of proper judicial mind by the Judge and it should not be a mechanical and not speaking judgment in nature.

It may be reiterated that without a judgment, there is no concept of justice and/or fruitful outcome of litigation which without any fear of contradiction means that the State lacks an **effective justice system**. In such a situation, I would, rather, go to the extent of saying that if the Judge/the Court does not pronounce a judgment for resolving the legal and factual issues involved in a dispute before it at all, the very purpose of the judicial branch of the State will be frustrated and eroded. If there is no judgment in terms of law, the entire judicial setup shall be rendered farce and illusionary, which obviously shall in turn disturb the equilibrium between the pillars of the State upon which it rests, resulting into serious impairment of the functioning of the State.

6. After having shed some light on the importance of judgments, it is essential to note that in pure civil litigation which emanates from the institution of a suit/*lis,* a Trial Judge, if there are triable issues for the resolution of which the evidence is required, *(note: subject to delinquency of the parties and the consequences for not producing the evidence thereof) (the court)* after recording of the evidence, is supposed to pronounce the judgment *per* Order 20 Rule 1(2), which reads as:- *"the Court shall, after the case has been heard, pronounce judgment in open court, either at once or on some future day not exceeding thirty days, which due notice shall be given to the parties or their advocates"*. The judgment thus has to be given by the Trial Court within the prescribed period of 30 days,

after the hearing of the case has been concluded. It may be relevant to mention here that with the commencement of the trial in a civil *lis*, the hearing of the case also starts. And with the conclusion of the trial, the hearing also concludes. The conclusion of the trial or the hearing means that the parties have concluded and completed their evidence. There is no specific provision in the CPC which confers the right upon the parties to make oral arguments before the trial Court, but *per* convention, the oral submissions of the parties are also heard, which exercise however, must be concluded within 30 days time from the conclusion of the trial, as prescribed by law. If the parties, despite the opportunity granted by the court to make oral submissions, do not avail the same, the court is not bound to wait indefinitely for them and keep on adjourning the matter. This is highly deprecated and should be discouraged, rather the Court should pronounce the judgment without their arguments and this *(such judgment)* shall not be in violation of the rule of hearing.

In my view, the expression *"not exceeding thirty days"* makes it mandatory for the Trial Court to render its judgment within the prescribed time period. If the same is not done, without a sufficient cause i.e. a cause beyond the control of the Judge, the judgment is impaired in value if not invalid and disciplinary action can be taken against a Judge who is found habitual in delaying his judgments beyond that period, obviously following proper legal steps for such action and in any case at least this vice of the judge must adversely reflect in his ACR's.

However, in the case(s) of appeal against the judgment and decree of the Trial Court, the provisions relevant in the context of judgment are Order 41 Rule 30, CPC, which read as follows:-

> *"The Appellate Court after hearing the parties or their pleaders and referring to any part of the proceedings whether on appeal*

> *or in the Court from whose decree the appeal is preferred to which reference maybe considered necessary, shall pronounce judgment in open Court, either at once or on some future day of which notice shall be given to the parties or their pleaders."*

From a reading of the above, it is conspicuous that the appellate Court after hearing *(note: obviously the hearing means oral arguments)* the parties or their pleaders, as the case may be, shall pronounce the judgment at once or on some future day. This future day by no stretch of legal interpretation or on the settled rules and norms of justice can be construed to mean an indefinite period. Rather the rule of **reasonableness of time** required for the performance of a judicial act in the normal and ordinary course necessary for doing justice should be attracted and pressed into service and read into it.

If the first appeal against the decree or order *(subject to the pecuniary jurisdiction)* is being heard by the District Judge *(Additional District Judges included),* and it is only the oral summations which are being addressed by the parties/pleaders and heard by the court and no fresh evidence is being recorded *(subject to additional evidence as discussed in Order 41 Rule 27 CPC)*, as the long exercise of a trial is now over; the record is complete; the matter is ripe in all respects for a decision, and the Judge is only required to render the judgment after hearing the summations, thus he has to do the same within **reasonable** time. This reasonable time, to my candid consideration, should not be more than 45 days. I am enlarging the margin of 15 days *(i.e. 30 days + 15 days)* because the same Judges also act as Sessions Judges and have to conduct session trials and render decisions in criminal matters and other judicial work also, thus given them the margin of other assignments the noted time is most reasonable and quite sufficient for the appellate court *(District Judges)* to compose the judgment. This rule and adherence to time,

should equally apply to the judgments in relation to the revisional as also review jurisdiction of these court(s) or where the court(s) is exercising any other special jurisdiction in cases of civil nature before it. If the judgments are not announced within such reasonable time as stated above, same consequences should follow which are prescribed for the trial court Judges in respect of action(s) proposed against them and the impairment of the judgment(s). I find it expedient to mention here that this rule should also extend to all the special courts *(forums)*, tribunals either constituted under the Federal or the Provincial laws and set up which are presided over by the serving or retired judges of the subordinate judiciary and even to those forums which are presided over by the ex-judges of the High Courts *(note: however if some time has been fixed by the law for the disposal of any matter before the special forum, such law should take precedence over this rule of reasonableness of time set out in this opinion).* It also requires mention here that in quite a large number of cases it has been experienced that the cases are adjourned for the arguments for umpteen, indefinitely numerous occasions, therefore to curb this menace the Judges of the District Judiciary and the special forum throughout the country while pronouncing their judgments should record a note at the end/bottom thereof, as to how many times the case was listed for hearing of the arguments and was adjourned so that the High Courts which have supervisory authority over the said Judiciary must stay abreast about the performance of the Judges; the causes for the delay and should take measures and the steps to rectify the causes and the reasons in this behalf. Moreover this Court as the apex Court of the country and being the paterfamilias must also know what is the state of affair in the Judiciary at the lower ebb and the manner in which the cases are being dealt with and conducted at the trial and appellate/revisional stage. The special courts and the forums should also made such endorsements at their judgments

too. No lethargy or casual attitude is tolerable and the times have come to take appropriate stern and positive actions for speedy justice, rather simple rhetorics.

7. I shall now turn to the hearing of the first and/or second appeals by the High Court(s), and the hearing of the cases before it in its revisional and constitutional jurisdiction. As the first appeals against decrees and mostly the constitutional cases and ICAs are heard by a Division Bench(s) of the High Courts, so as to enable the two Judges to deliberate, confabulate and compose the judgment(s), or record dissent and/or exchange draft judgments, the reasonable time for the pronouncement of judgments should be 90 days. This time period *(90 days)* shall also be reasonable time for the High Courts, for the reason that Article 201 of the Constitution of the Islamic Republic of Pakistan, 1973 mandates *"Subject to Article 189, any decision of a High Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all courts subordinate to it"*. Thus for proper enunciation of law, considerable research, brooding and pondering may be required. 90 days time in view of said Article should, therefore, also be good and adequate for the composition of the judgments by the High Court(s) in the above matters and also in first appeal against order or second appeals, and in the cases before it in its revisional or review jurisdiction, or any of the special jurisdictions of the High Court(s) *(note: subject to the principle if the law has fixed a time for the conclusion of the proceedings and pronouncement of judgment under any special law, this has to take precedence over the 90 days)*

If the Judges cannot compose and deliver the judgments within the above *(reasonable)* time, then they for sufficient reasons, to be recorded *(by them)* should set out the case for re-hearing. However, because of the high status of the judges of the High Courts, it is not expected that the learned Judges shall fix the matters for rehearing in routine just to cover up the

lapse in composing the judgment within 90 days, rather I am sure that it shall definitely be for genuine reasons, reflected in the order of rehearing as to why the judgment could not be written and pronounced. However, pronouncement of judgment by the High Court after a lapse of time period of 90 days if the matter for any reason is not put for any rehearing *per se* shall not be invalid, though it may be frowned upon. But again it does not mean that learned High Court has indefinite time to pronounce the judgment after hearing of the matter. In my opinion, the maximum time within which the judgment should come is 120 days. Otherwise the judgment shall stand weakened in quality and efficiency, if not invalid altogether and therefore when challenged before this Court, the Court shall decide whether it should sustain or set aside on the simple and short ground of inordinate delay.

8. Now coming to the judgments to be rendered by the apex Court of the country. The cases/matters by this Court are heard in benches. Usual cases are heard by a three members' bench, though two members' benches also hear the matters. The rule of 90 days should also ordinarily extend to those *(cases)* heard by two member benches of this Court and if the matter is not decided within this time, the case should be fixed for rehearing. <u>This is what I would do for myself.</u>

But as the cases are heard by the larger Bench particularly a Bench of three and above, the rule of 90 days should not be attracted because this Court, being the apex Court of the country has to enunciate law on very important legal and constitutional propositions, which law is binding on all the courts and other organs of the State *(see Article 189)*. Therefore for laying down the LAW, a lot of effort, research, deliberations and confabulations are required. This is the final court of the country which is saddled with the duty of laying down the correct law therefore more responsibility is cast on

the Court and utmost care is required to pursue the law which is free from any flaw(s). Thus the judgments sometimes after being drafted are shelved for a while for further thinking, rethinking about its implication, the effect and impact on the State, society, culture, pending cases and the system of governance, the rights of the citizens etc. This Court settles the jurisprudence of the country and the development and true interpretation of law. Numbers of drafts are therefore prepared for discussion and in put; different opinions are to be recorded in the same judgment on different points of law by the Judges of the Bench; there are dissents recorded. It is, thus, left to the Judge(s) of this Court to decide for themselves as to what minimum time frame shall be needed for composing and pronouncing the judgment as the judges of the superior courts cannot be said to be unaware or unmindful about their responsibility of providing speedy justice and the expediency of dispensation of the justice. And of course the mandate of Article X of the Judges Code of Conduct, which they have sworn *(vide their oath)* to follow and abide by in letter and spirit. And the said Article stipulates:-

> *"In this judicial work a Judge shall take all steps to decide cases within the shortest time, controlling effectively efforts made to prevent early disposal of cases and make every endeavor to minimize suffering of litigants by deciding cases expeditiously through proper written judgments. A Judge who is unmindful or indifferent towards this aspect of his duty is not faithful to his work, which is a grave fault."*

9. Furthermore, in the context of the judgments in general and in particular to be delivered by the **superior courts**, it is my firm and well thought-out view that if there is an inordinate delay in pronouncement of judgment after hearing of the matter, especially on account of lapse of considerable and reasonable time, such as six months and beyond, the

Judges shall not be in a position to exactly recall and record with precision and exactitude as to what propositions of law and facts were argued before them. This shall have reflection upon the rule of *audi alteram partem*, which is a fundamental and salutary rule of justice and postulates that if someone has been denied appropriate opportunity of hearing in a case, any verdict/decision given against such person/party shall not be laudable. This rule is quite known and established in our jurisprudence *(note: I do not find it expedient to unnecessarily reiterate the importance of this rule here)* and the legal consequences qua the violation thereof by a Court are also well established.

Besides, it may be mentioned here, that hearing means a meaningful, purposeful and effective hearing which enables a Judge to understand the legal and factual proposition involved in the matter as opposed to an illusionary and cursory hearing conducted barely as a formality and to bring on record mere compliance of the rule of hearing. If effective hearing is not provided, it shall tantamount to non-hearing of the party concerned and the legal consequences of non-hearing of parties shall follow.

10. Be that as it may, in quite a number of cases where judgments have been withheld by the Courts *(by any Court)* for a considerable period of time, it has been frowned and disapproved, for example in the case reported as **Muhammad Ovais and another Versus Federation of Pakistan through Ministry of Works and Housing Pakistan, Islamabad and others (2007 SCMR 1587)** it has been ordained:-

> *"6. With regard to the writing of judgment, the directions can be found under Order XX, rule 1(2) of the C.P.C. It lays down imperatively that, after the case has been heard, the Court shall pronounce judgment in the open Court either at once or on some future date not exceeding thirty days, for which due notice shall be given to the parties or their Advocates. The Code applies to the High Court as well but if its application is relaxed in the exercise of constitutional jurisdiction, one can conclude that the judgment be pronounced on some future date, to be reasonably calculated.*

> *Though, strictly speaking, departure from thirty days is not justified otherwise. Abdul Aziz, C.J. in Pathana v. Mst. Khandal PLD 1952 BJ 38 had observed that a judgment, with reference to Order XX, rule 1, C.P.C., delivered after five months of hearing arguments is tantamount to delivering judgment without hearing the parties. A Full Bench of this Court in Syed Iftikhar-ud-Din Haider Gardezi v. Central Bank of India Limited 1996 SCMR 669 has maintained that the term "future date" cannot be determined by a Court unreasonably. This was with reference to Order XLI, rule 30, C.P.C. In the case aforesaid, a judgment pronounced eight months after hearing of arguments was held to be unreasonably delayed and the case was remanded to the High Court for rehearing and re-deciding the matter. We have given our anxious consideration to the law involved and also the principle of propriety and hold that when the delay in pronouncement of judgment is not expected to be unreasonable either in the exercise of original or in appellate jurisdiction, why it should be so allowed and interpreted in case of constitutional jurisdiction, especially, when Code of Civil Procedure is held applicable.*
>
> *7.* . . . . . .
>
> *8. Even if, we go to the condition of prejudice caused to a party by delayed pronouncement of judgment, though not provided in law, yet the decision would depend upon the facts and circumstances of each case. It is only adhered to for the sake of argument, whereas, the verdict in 1996 SCMR 669 is to prevail any way. The unreasonable delay of ten months in the instant case in pronouncement of judgment by the learned High Court has caused prejudice as well. In the lengthy arguments addressed before us on merits, we were referred to a bulk of documentary evidence going to the very route of the case which was never found mentioned in the impugned judgment of the High Court. This omission seems to be caused only and only due to the delay of ten months in question."*

Almost to the same is the ratio of the law laid down in the cases reported as **Syed Iftikhar-ud-Din Haidar Hardezi and 9 others Versus Central Bank of India Ltd. Lahore and 2 others (1996 SCMR 669), Muhammad Latif Versus Member, Board of Revenue/Chief Settlement Commissioner, Punjab, Lahore and 9 others (2003 CLC 1064)** and **Walayat Hussain**

Versus Muhammd Hanif (1989 MLD 1012). Similar jurisprudence can also be found in the Indian Jurisdiction on the subject, where in the case reported as **R.C. Sharma Versus Union of India and others (AIR 1976 SC 2037),** it has been held as under:-

> *"The Civil Procedure Code does not provide a time limit for the period between the hearing of arguments and the delivery of a judgment. Nevertheless, we think that an unreasonable delay between hearing of arguments and delivery of a judgment, unless explained by exceptional or extraordinary circumstances is highly undesirable even when written arguments are submitted. It is not unlikely that some points which the litigant considers important may have escaped notice. But, what is more important is that litigants must have complete confidence in the results of litigation. This confidence tends to be shaken if there is excessive delay between hearing of arguments and delivery of judgments. Justice, as we have often observed, must not only be done but must manifestly appear to be done."*

11. In the light of all that has been discussed and mentioned above, it is clear that unlike the cases before the Trial Court, the cases for which no specific period has been fixed by the statutory law for pronouncing the judgment, it is required of the learned Judges concerned of the District Judiciary that they should pronounce the judgments within the time enunciated by this opinion. And it is expected of the learned Judges of the High Courts to give respect to what time has been laid down herein. Otherwise, any judgment rendered may be questioned as not being meaningful, purposive and rather illusionary. Such a verdict shall neither fit in the concept, object and purpose of a judgment nor shall it meet the rule of proper dispensation of justice. But if any matter comes before this Court in which a judgment of the learned High Court is attacked as traveling beyond the period of six months, despite my holding it to be weakened in quality etc., but it shall not be invalid altogether, still it shall

be open to this Court to examine if for some reason an exception can be taken to this opinion and if so such judgment may be upheld. However having examined the judgment impugned in this case which has been pronounced after a period of one year and three months, I find it to be against the rule of natural justice and it fundamentally does not meet with the concept of proper judicial dispensation, thus the same cannot be sustained and in such a situation the rule of vitiation of a judicial decision can be aptly resorted to; and is, therefore, set aside and the matter is remanded to the learned High Court for decision afresh. These appeals stand allowed in the terms noted above.

CIVIL PETITION NO.782-K/2009:

12. In this case, the impugned judgment has not been passed through independent application of mind, rather the Court has decided the matter simply on the basis of the judgments pronounced in the noted appeals, which have been set aside, thus the impugned judgment in this case also cannot be sustained. Resultantly this petition is converted into appeal and allowed, the impugned judgment is set aside and the matter is remanded to the learned High Court for decision afresh in accordance with law.

JUDGE

JUDGE

JUDGE

Islamabad, the
21st April, 2015
Approved For Reporting
*Ghulam Raza/**