

SUPREME COURT OF AZAD JAMMU & KASHMIR

[Appellate Jurisdiction]

PRESENT:

Raja Saeed Akram Khan, C.J.

Raza Ali Khan, J.

CIVIL PLA NO. 577 OF 2023

CIVIL MISC. NO.388 OF 2023

(Against the judgment of the High Court dated 02.06.2023 in Appeal No.134 of 2021)

M/s. Bank Alfalah Limited

.... Petitioner(s)

VERSUS

Abdul Salam

.... Respondent(s)

For the petitioner:

Mr. Rahil Sikandar
Khawaja, Advocate.

For the respondent:

Nemo.

Date of hearing: 16.08.2023

ORDER

Raja Saeed Akram Khan, C.J.- In this case, the plaintiff-respondent filed a suit before the Banking Court of Azad Jammu and Kashmir against the defendant-bank for specific performance of agreement regarding loan finance of vehicle. It was contended in the suit that the defendant-bank, despite of receiving about two million rupees had not delivered the vehicle (Honda BRV-8) to the plaintiff. The suit was decreed

vide judgment and decree dated 06.07.2021. The defendant-Bank filed an appeal before the High Court which has been dismissed through the impugned judgment on the sole ground that power of attorney and resolution of Board of Directors has not been annexed with the memo of appeal.

2. The contention of the learned counsel for the petitioner is that the learned High Court has dismissed the appeal merely on technical ground without touching upon the real controversy involved in the matter just on an irregularity of not appending the power of attorney and resolution of Board of Directors with the memo of appeal. He submitted that the lapse committed on the part of the counsel for the petitioner was not intentional. The petitioner had filed an application for permission to annex the power of attorney and resolution with the memo of appeal but the same was illegally rejected. As important legal propositions are involved, hence, grant of leave is justified.

3. We have heard the learned counsel for the petitioner and gone through the record. It appears from perusal of the record that the plaintiff-respondent filed a suit for specific performance against the petitioner,

herein. The suit was decreed. The petitioner filed an appeal before the High Court without annexing the General Power of Attorney and Resolution of Board of Directors. After realizing this lapse, the petitioner filed an application before the High Court on 31.05.2023, after a period of almost two years from filing of the appeal, for permission to annex the aforesaid documents. It was alleged in the application that the aforesaid documents could not be annexed with the appeal due to error/mistake unintentionally rather the same remained lying in the office of the counsel. In our opinion, the learned High Court has rightly opined that the fault of counsel is the fault of the client. Such a lacuna cannot be allowed to be filled after lapse of two years from filing of appeal. Thus, the learned High Court has not committed any illegality while passing the impugned judgment, which is well-reasoned and calls for no interference by this Court. No legal question of public importance is involved.

Resultantly, finding no force, this petition for leave to appeal is dismissed. No order as to costs.

CHIEF JUSTICE

JUDGE

Muzaffarabad,
16.08.2023