

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

M.A No.28/2012

Date

Order with signature of Judge

1. For hearing of Main Case
2. For hearing of CMA No.2353/2012 (U/o.XXIII Rule 1 & 2 CPC)

10.11.2016

None present for the Applicant.

Mr. Zahid Marghoob, advocate for the Respondent.

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This Misc. Appeal is arising out of order dated **11.4.2012** whereby First Additional Session Judge Central Karachi dismissed an application under Order XLI Rule 19 filed by the applicant for restoration of his Appeal No. 70/2009 which was dismissed for non-prosecution on **20.11.2011**.

This Misc. Appeal is connected with Revision Application No. 236/2010. Revision was arising out of order dismissing an application under Order 1 Rule 10 CPC in the same Appeal.

Learned counsel for appellant on **22.10.2011** has failed to appear before the Appellate Court, therefore Appeal No. 70/2009 was dismissed for non-prosecution. He filed an application under **Order XLI Rule 19 CPC** which was also dismissed on merit by impugned order. Learned Appellate Court by a comprehensive order has dismissed application under **Order XLI Rule 19 CPC** and on perusal it does not appear to be suffering from any illegality and irregularity. The grounds taken for restoration of appeal in the application before the trial Court were not justified. The said application was not even supported with an affidavit of the counsel, who was also absent on **22.11.2011** when the case was listed for hearing of appeal pending since 2009.

I have also gone through the grounds taken in this Revision application and not impressed as no “sufficient cause” has been shown in any of grounds to justify absence of the counsel as well as his client from the Court on the fateful day.

In view of the above, this Misc. Appeal is dismissed.

JUDGE

SM