

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**CP No.S-529 of 2018**

Date	Order with signature of Judge
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1. For orders on CMA No.9543/2018 (Fast Track)
2. For hearing of CMA No.2029/2018 (stay)
3. For hearing of Main Case

**06.11.2018**

Syed Fazal-ur-Rehman, advocate for the petitioner.  
Mr. Mehboob Aftab Khan, advocate for Respondent No.1.

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The only point raised in this constitution petition against the order of the Appellate Court is that the appeal was lying dismissed for non-prosecution and appellant has filed an application for restoration of his appeal. However after hearing argument on restoration application the same has not been decided and instead main appeal has been decided as if the FRA was not dismissed, at the relevant time or it was already restored. Though it appears to be too technical but unfortunately the impugned order does not even refer to the very fact that the Court has also heard the learned counsel on the merit of the appeal. There is not even a single line reference to the application for restoration of appeal. Learned counsel for the petitioner has relied on the following case law.

***Messrs Suhail Printing Press ..Vs.. Syed Aley Eba Zaidi*** (2005 SCMR 882)

However, since appellant has already consumed almost six months' time in this constitution petition, the application filed by the petitioner for restoration of FRA stand allowed and both the parties present in Court are directed to appear before IIIrd A.D.J (South) Karachi on **17.11.2018** for re-hearing of FRA No.225/2016 and passing afresh order after hearing and incorporating the contention of the appellant / petitioner. On the said date the

learned Judge would not adjourn the said FRA No.225/2016 and shall not grant any adjournment to either side and will pass a comprehensive order on or before **24.11.2018**.

With the above observations, this petition is disposed of. Let copy of this order be sent to IIIrd A.D.J (South) Karachi with direction to submit copy of the judgment through MIT-II before **28.11.2018** for perusal in chamber.

JUDGE

SM