

ORDER SHEET

IN THE HIGH COURT OF SINDH KARACHI
C.P. No. D-6606 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGES
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1. For orders on office objection
2. For hearing of Misc. No. 27412/2017
3. For hearing of main case.

25.02.2019

**Present: Mr. Muhammad Ali Mazhar
Mr. Justice Agha Faisal**

Mr. Ayaz Ahmed Ansari, Advocate for the Petitioner
Mr. Muhammad Nazir Tanoli, Advocate for the Respondents
No. 17 & 18
Mr. Sibtain Mehmood, AAG alongwith Ghulam Akbar Lashari,
State Counsel

Muhammad Ali Mazhar, J:- Petitioner has impugned the order dated 30.05.2017 passed in Civil Revision Application No. 68 of 2012 by Vth Additional District and Sessions Judge, Karachi (East). Basically, the present order has been passed on restoration application as the Civil Revision was dismissed for non-prosecution. Learned Appellate Court in its order observed that Civil Suit No. 810/2010 is already pending for declaration and permanent injunction in which the Court has passed some restraining orders and the parties vice versa challenged the validity of their office bearer in the Anjuman Masjid New Town, Karachi. Civil Revision was filed by Zafar Idress Soleja on behalf of Anjuman Masjid, New Town, Karachi and this petition has been filed by alleged Joint Secretary Muhammad Athar Saeed on behalf of Anjuman Masjid New Town, Karachi and not by Zafar Idress Soleja. We have also called upon the learned Counsel for the petitioner to explain that when the suit is pending to decide the status of the office Bearers of the Anjuman Masjid, New Town, Karachi then how this petition is maintainable and in reply he raised formal dispute of questions of fact and factual controversy, which cannot be decided here.

So far as the dismissal of the restoration application is concerned, the learned Appellate Court clearly observed that applicant has miserably failed to show any plausible reason for non-appearance of applicant or his Counsel on **05.03.2014** and for not issuing notice to respondents nor paying cost, therefore, learned Appellate Court was not inclined to restore the Civil Revision Application.

After arguing at some length, learned Counsel for the petitioner agrees that the present petitioner will move an application under Order 1 Rule 10 CPC in Civil Suit No. 810/2010 within 10 days. Learned Counsel for the Respondents No. 17 & 18 as well as AAG both have no objection.

This petition is disposed of with directions that if an application, is moved for impleading the present alleged Joint Secretary Mr. Muhammad Athar Saeed in Suit No. 810/2010 in the trial Court, the same shall be decided on its own merits after providing opportunity of hearing to all concerned.

JUDGE

JUDGE

FAISALMUMTAZ/PS*