

w/o Muhammad Tahir & Rao Kaleem s/o Abdul Hakim through publication that this matter has been restored and they should be present before this court on 02.10.2018.”

2. *Prima facie*, by order dated 30.6.2017 the petition was dismissed on merits, being found not maintainable on count of territorial jurisdiction. It is needless to add that a final terminal (disposal) of a *lis* on merits results in closing all rooms upon such Court to extent of such *disposed off* *lis* except by way of ‘*review*’. There can be no denial to proposition that no Court can take cognizance unless the barrier of ‘**territorial jurisdiction**’ and ‘*pecuniary jurisdiction*’ stands lifted by law. Both of these, shall *always* be the roots of every legal structure hence, I would insist, in absence of *root* no legal structure can sustain. In short, if the Court lacks the *jurisdiction* on count of ‘*territorial jurisdiction*’ or ‘*pecuniary jurisdiction*’ it shall not be advisable to the Court to proceed further else any subsequent order, determining rights of parties, shall be nothing but a *nullity*. This has been the reason that law always require the Courts to attend this issue as *primary duty*. Reference is made to the case of *Multan Electric Power Company Ltd. v. Muhammad Ashiq & Ors.* (PLD 2006 SC 328) wherein it is observed as:-

“16. It is primarily the duty of the Courts and other adjudication forums to decide *lis* before them in accordance with law. The Courts and other forums are not relieved of this duty on account of an act or omission of a litigant or a lawyer. Also that jurisdiction on a Tribunal or Court is conferred by law and not by consent of the parties, express or implied.”

3. Thus, I would feel safe in saying that after dismissal of the instant petition by order dated 30.06.2017, there remained no room for filing the

'restoration application'. Restoration, I shall insist, can only be sought where the *lis* was disposed of either for non-prosecution or for non-compliance but course of **restoration** shall never be available where the *lis* was disposed of on merits, including on point of *territorial* or *pecuniary* jurisdiction(s).

4. Without prejudice to above, the perusal of the order dated 20.08.2018 shows that at such occasion the disposal of the petition on **'merits'** was not brought into notice of the Court. An order passed because of some mistake of fact or law shall always be opened to be corrected/rescinded within meaning of General Clauses Act. Since, candidly, petition was dismissed by final order on merits, hence, subsequent order of restoration, being *prima facie* result of some mistake of fact, cannot be allowed to sustain nor can be sufficient to reverse the disposal of a *lis* which, otherwise, could only be done by an appellate (superior) Court. Since, I am also conscious that a petition, once lawfully disposed of on merits, cannot be disposed of again by same court, therefore, legal position compels me to conclude that order dated 20.8.2018 be deemed to have never been passed and petition shall be deemed to have been disposed of vide order 30.6.2017 for all purposes and intents. Order accordingly.

JUDGE

Sajid