

**Order Sheet**  
**IN THE HIGH COURT OF SINDH,**  
**BENCH AT SUKKUR**

**Civil Revision Application No.S- 200 of 2010**

Date of hearing	Order with signature of Judge.
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**Applications in d/o case**

- 1.For orders on CMA 1320/2019(Condonation)
- 2.For hearing of CMA 1321/2019 (Restoration)

**04-11-2022**

Mr. Parmanand, Advocate for the applicants.  
Mr. Noor Hassan Malik, Assistant Advocate General.

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**1.** By means of this application, filed under Section 5 of the Limitation Act, 1908 (**“the Act”**), the applicants seek condonation of delay in filing of Restoration Application (*listed at No.2 above*).

Briefly stated, the facts of the case are that the applicants preferred this Civil Revision Application against the judgment and decree dated 31.08.2010, whereby the learned 1<sup>st</sup>. Additional District Judge, Ghotki while dismissing Civil Appeal No. 07 of 2002 maintained the judgment and decree dated 26.11.2001 and 29.11.2001, respectively, thereby the learned Senior Civil Judge, Ghotki dismissed the Suit of the applicants with compensatory costs under section 35(a) CPC for a sum of Rs.25,000/- upon the respondent No.6. This Civil Revision was dismissed for non-prosecution by this Court, vide order dated 22.01.2019 and thereafter, on 26.12.2019 after more than ten months, the applicants filed C.M.A No. 1321 of 2019 for its restoration. The applicants considering their said restoration application as barred by time filed this application under section 5 of the Act for condonation of alleged delay. It is now well-settled that there are no specific provisions in the C.P.C. for dismissal and for the restoration of a civil revision, therefore, the same can be dismissed and restored by the court while exercising its inherent powers. As there is no specific article of the Act which would prescribe the limitation period for the exercise of such inherent power of the court, therefore, the residuary Article 181 of the Act, which prescribed limitation period of three

years, shall be attracted. Reference in this regards may be made to the case of Mandi Hasan alias Mehdi Hussain and another v. Muhammad Arif (PLD 2015 SC 137) and Ghulam Qadir and others v. Sh. Abdul Wadood and others ( PLD 2016 SC 712). Hence, holding the restoration application well within time, this application being misconceived is dismissed accordingly.

2. By means of this listed application, the applicants seek recalling of order dated 22.01.2019 and restoring of the case on its original position on the ground that on the alleged date when the matter was dismissed for non-prosecution, their counsel Mr. Amanullah Shaikh had expired and they were not aware about his death so also dismissal of instant Civil Revision; however, on coming to know these facts, they immediately filed this application.

On the other hand, learned Assistant A.G concedes to the grant of restoration application subject imposition of some cost upon the applicants.

The grounds that earlier the applicants were being represented by Mr. Amanullah Shaikh, Advocate, who passed away and the applicants were not aware about his death so also dismissal of instant Civil Revision have specifically been taken in this application. However, it is a matter of record that the applicants were not vigilant. Accordingly, the instant application (CMA-1321 of 2019) is allowed by recalling the order dated 22.01.2019. Consequently, the instant Civil Revision is restored on the same position as it was on the aforesaid date; however, subject to costs of Rs.20,000/- (Rupees Twenty Thousand) to be deposited by the applicants in the High Court Bar Library Fund within 30-days hereof.

Let notices be issued to the respondents for a date to be fixed by the office.

**JUDGE**