

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI

**Suit No. 1104 of 2003**

Date	Order with Signature of Judge
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For evidence of Defendant

**13.10.2023**

None present.

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The Plaintiff's Counsel in this Suit has not been present for several dates of hearing. Defendant has also filed a Counterclaim against Plaintiff but failed to commence evidence and/or, in the alternative, file any application for recording evidence by way of Commission.

On 05.11.2018, when Plaintiff's Counsel did not show up to lead evidence, the side of Plaintiff to lead evidence was closed by this Court, and the matter was fixed for evidence of the Defendant. Since 05.11.2020, neither Counsel for Plaintiff has shown up in Court, nor Defendant has been present to lead evidence in support of the counterclaim. In spite of Cautions from the Court, evidence of the Defendant in support of the counterclaim has yet to start.

This bench took up the matter on 28.08.2023 when none were present for the parties. No intimation was received. Accordingly, the Court issued a Court Motion Notice to the parties by the Bailiff and their Counsels through electronic modes (Whatsapp and email) and adjourned the case to 06.10.2023 at 11:00 a.m. but again, no one showed up, and the suit was adjourned to 13.10.2023 at 10:00 a.m.

None are present today. No intimation is received. The Plaintiff's side was closed in 2018, and in five (5) years, Defendant has yet to lead their evidence in support of their counterclaim. The record demonstrates that neither Plaintiff nor Defendants pursue their claims seriously. Defendant Counsel, who was directed to proceed with evidence, failed to appear for the hearings on several dates. As mentioned above, no application for Commission has been moved either for leading evidence to support counterclaim. Based on the reported Judgments of *Moon Enterprises v. Sui Northern Gas Pipelines Limited*, 2020 SCMR 300 and *Ghulam Qadir v. Haji Muhammad Suleman*, PLD 2003 Supreme Court 180, it appears that both Plaintiff and Defendant are not keen to proceed with their claim and counterclaim against each other, respectively.

In the circumstances, this Court is constrained to dismiss both this suit and the counterclaim for non-prosecution.

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