

*Order Sheet*  
IN THE HIGH COURT OF SINDH KARACHI  
**Suit No. 796 of 2004**

Date	Order with Signature of Judge
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For evidence

**02.10.2023**

Mr.Muhammad Ilyas Waraich, Advocate for Defendant Nos.2 and 3  
Mr.Junaid Alam Khan, Advocate for KMC

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None present on behalf of Plaintiff. No intimation is received.

This matter was instituted on 22.07.2004. Written Statement was filed by Defendant No.1 on 22.07.2004 while Defendant Nos.2 and 3 were debarred from filing Written Statement vide Additional Registrar (O.S.) Diary Sheet dated 10.03.2005. Thereafter, the matter was listed for settlement of issues settled on 25.10.2010. The matter was fixed for evidence on 17.12.2018 and again on 09.03.2020. On 09.03.2020, after a second round of calls since morning, none appeared on behalf of the parties, and the matter was adjourned to 04-04.2020. The case came up for evidence again on 31.08.2023, but none were present. Accordingly, the Court issued Court Motion Notices to the parties through Bailiff and to their Counsels through electronic modes (Whatsapp and email) for 15.09.2023 at 10:00 am. Bailiff's Report dated 14.09.2023 shows that Plaintiff was not found at the given address while the office of Advocate of Plaintiff had shifted. None appeared once again when the matter was listed for evidence on 15.09.2023 and was adjourned for the same purpose to 29.09.2023 at 10:00 am. In the interest of justice, Court Motion Notices were sent to the parties through Bailiff to be served by way of pasting. Bailiff's Report dated 28.09.2023 reflects that the Court Motion Notice was pasted at the given address of Plaintiff while from the office of Sindh Bar Council, it was reported that Counsel for Plaintiff has passed away. The matter could not be taken up on Friday, 29.09.2023, at 10:00 a.m. as it was a public holiday and was re-listed on

Monday, 02.10.2023 at 10:00 am. None appeared on behalf of Plaintiff at 10:00 a.m., and once again, no intimation was received on the same date on the second call at 1:00 p.m.

The constant absence of Plaintiff and his Counsel on numerous dates of hearing through the years 2018 to 2023 is apparent from the record. The record also demonstrates that although Defendants turned up in Court today, none appeared on behalf of Plaintiff, and he has failed to appear and proceed with the matter. 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 does not appear that the Plaintiff is keen to proceed with his matter.

In view of the above, this Court is constrained to hereby dismiss Suit along with all pending application(s) for non-prosecution.

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