

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.1254 of 2015
Suit No.1131 of 2018

Date	Order with signature of Judge(s)
------	----------------------------------

1. For orders on Commissioner report dated 25.05.2024.
2. For further orders.
3. For hearing of CMA No.4998/2024.

09.08.2024

Mr. Muhammad Ali, advocate for the plaintiff.
Mr. Shahid Ali Ansari, advocate for the defendants.
Mr. K.A. Vaswani, Additional Advocate General Sindh.

1. Commissioner report is taken on record, subject to all just exceptions.

2&3. Vide order dated 06.03.2024 listed application was dismissed for non-prosecution. This is restoration application and it is noted at the very onset that there is repeated reference to names of Judges of this court having passed orders. It appears that the draftsman of the application is unaware that orders are passed by the court and not by an individual. The repeating of names of Judges is duly deprecated and the dealing counsel is cautioned to be careful.

Insofar, CMA is concerned, the same as well affidavit in support thereof is peppered with names of Judges and other than that the only ground invoked is the overseas travels of the counsel. Respectfully, the same could not be demonstrated to be cogent grounds for consideration of application.

A party is required to remain vigilant with respect to legal proceedings; more so when the same have been preferred by the party itself. The truancy of the plaintiff from the proceedings under scrutiny is *prima facie* apparent and the same has also been admitted by the newly engaged counsel. Under such circumstances it was the prerogative of the Court to determine the proceedings and that is what appears to have been done. Counsel remained unable to justify the persistent absence and no case has been made out to condone the default. The Supreme Court has observed in *Nadeem H Shaikh*¹ that the law assists the vigilant, even in causes most valid and justiciable. The fixation of cases before benches / courts entails public expense and time, which must not be incurred more than once in the absence of a reason most genuine and compelling. Default is exasperating and such long drawn ineptitude cannot be allowed to further encumber pendency of the Courts. In view hereof, listed application (CMA 4998 of 2024) is dismissed.

Office to place a copy hereof in the connected file.

Judge

¹ Per Qazi Muhammad Amin Ahmed J. in *SECP vs. Nadeem H Shaikh & Others (Criminal Appeal 518 of 2020)*; Order dated 27.10.2020.