

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Const. Petition No. D-6664 of 2019  
(Ghulam Ali Versus Ghulam Nabi & 3 others)

<b>Dated</b>	<b>Order with signature of Judge</b>
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Present:  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Omar Sial

Priority

1. For hearing of Misc. No. 29523/2019
2. For hearing of Main Case

**Dated 13.02.2024**

Syed Safdar Ali Advocate for Petitioner  
Syed Shahnawaz, Advocate for Respondent No.3  
Mr. Farhan Zia Abrar Advocate for the Respondent No.4  
Mr. Abdul Jaleel Zubedi, A.A.G.

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**Muhammad Shafi Siddiqui, J.-** Against the order passed in Civil Revision application No.49 of 2016, which was dismissed for non-prosecution on 15.04.2019 followed by restoration application, which too met the same fate on 30.09.2019, this petition was preferred. This petition thus impugns the two orders referred above.

2. We have heard counsel and perused the impugned orders.
3. The reasons assigned in the order dismissing the restoration application were disclosed in the second para of typed page-3 of the order. The VII-Additional District Judge, Karachi-Central observed that “there was force in the arguments of the respondents as against the arguments of the applicant”, and that is it. There is no independent application of mind as to why the restoration application could not be allowed or revision could not be restored. Application was supported by Affidavit and the Rejoinder affidavit. Both disclosed reasons of counsel’s inability of non-appearance, which is not discussed separately.

4. The record disclosed that the petitioner/applicant appeared in the matter on the crucial day and waited, details given in the application and affidavit. Learned Additional District Judge ignored the contents of affidavit as not answered. The “reasons” of the learned Additional District Judge in deciding the application are more important and relevant than the “liking” of arguments of any side.

5. We are of the view that justification of absence on the crucial day and crucial time is more relevant. It could have been restored by allowing restoration application with cost and conditions may be imposed which was not done. Law requires the adjudication on merit and first attempt should be on that count.

6. We, therefore, allow the restoration application and restore the revision application with cost of Rs.20,000/- with direction that the revision application be decided at the earliest, preferably, within four weeks’ time. Compliance Report be submitted to this Court. Cost be deposited in seven days to the four Respondents proportionately before the Revisional Court.

7. The instant petition stands disposed of in the above terms. R&Ps be sent back to the trial court.

*JUDGE*

*JUDGE*

Amjad PS