

ORDERSHEET
 IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
 Civil Revision Appln No. S-10 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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Fresh cases.

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1. For orders on CMA 53/2017 (Ex)
2. For orders on CMA 54/2017
3. For hearing of main case.

04-03-2019.

Mr. Tarique G. Haneef Mangi Advocate for applicant.

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ORDER.

Muhammad Shafi Siddiqui, J. This civil revision application impugns an order of the two Courts below whereby suit was dismissed for non-prosecution.

The brief facts of the case as recorded by the trial Court are that the issues were framed on 12.08.2009 and the suit for the first time was dismissed for non-prosecution on 21.01.2010. The restoration application was moved on 27.01.2010 and on 05.10.2010 the application was allowed and the suit was restored on its original position and the plaintiff / applicant was directed to proceed the suit expeditiously.

Again on 11.01.2011 suit was dismissed for non-prosecution and the plaintiff again filed an application for restoration on 12.01.2011. On 16.06.2011 the application for restoration of the suit was dismissed. The plaintiff / applicant preferred Civil Appeal No.16/2011 which was referred to Additional District Judge (Hudood) Sukkur. On 25.05.2012 the appeal was allowed and impugned order dismissing the suit for non-prosecution was set aside and the suit was restored subject to cost of Rs.2500/- to be paid within 15 days. It was observed by the trial Court that till passing of the order the plaintiff failed to deposit the costs and to record evidence.

The final chance too was given to the plaintiff /applicant but he failed. On 31.10.2013 on first call plaintiff was present and then he disappeared from the Court on second call and suit was dismissed. The facts mentioned in the affidavit in support of the restoration application for the third time are contrary to the facts as the plaintiff was present but on the second call he disappeared. These are not normal circumstances which require suit to have been dismissed in the later hours rather than in the earlier hours. Even if the suit was dismissed, as claimed in the earlier hours, these facts of the case shows that applicant was negligent throughout and calls for no mercy. This practice should be discouraged since now the judges have more cases in their cause list to be taken up than earlier, and there is no possibility of keeping the matter aside. Whether it was dismissed in the earlier hour or later, applicant under the circumstances should have been present in the Court on the first call. Consequently the application was dismissed followed by the dismissal of Civil Misc. Appeal No.10/2015 with cost which order is impugned in these proceedings. I do not see any reason to interfere in the concurrent findings of two courts below when on third successive attempt the applicant / plaintiff was found negligent in appearance he deserves no mercy.

Accordingly revision application is dismissed.

4.3.19
 JUDGE