ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Ist Appeal No. S – 20 of 2010

Date of hearing Order with signature of Judge

Application in disposed of case

For orders on CMA No.851/2023 (Restoration)

<u>14.03.2025</u>

None present.

.-.-.-

The listed CMA has been filed for restoration of the instant appeal, which was dismissed for non-prosecution by this Court vide order dated 07.12.2020, which is reproduced below:

> "Adjournment sought on part of the learned Counsel for the Appellant on the ground that concerned Counsel has gone to Principal Seat at Karachi. Strangely, it is observed that on 06.11.2020, when the matter was taken up specific date for today was given and the option of filing written synopsis provided but none has been availed. In the circumstances, request for adjournment is rejected and the matter stands dismissed for nonprosecution on account of the fore-given."

Subsequently, after a lapse of two years, on 05.12.2022, the listed CMA for restoration of the appeal was filed. It is surprising that the appeal, according to the contents of the restoration application, was admitted for regular hearing on 10.12.2010. However, despite the passage of almost ten years, the appeal was not diligently pursued.

The ground raised in the CMA for restoration of the appeal is that, as per order dated 17.03.2020, learned Counsel for the respondent filed a statement dated 02.03.2020, and up until the order dismissing the appeal for non-prosecution was passed, learned Counsel for the appellant was not supplied with a copy of the same. The order referred to is dated 17.03.2020, when too learned Counsel for the appellant was not in attendance, whereas the appeal was dismissed on 07.12.2020. Thereafter, the matter was fixed for four times, including the last date of dismissal, on 21.09.2020, 05.10.2020, 06.11.2020 and 07.12.2020, but astonishingly, learned Counsel for the appellant remained absent and briefs were held on his behalf. This clearly indicates a lack of interest on the part appellant and his Counsel for not making any effort to obtain a copy of the statement for almost seven months and waiting passively.

Furthermore, it has been claimed in the restoration application that the appellant was completely unaware of the dismissal order until receiving notice from the Court of learned Ist Senior Civil Judge, Sukkur, in F.C. Suit No.254/2021 filed by the respondent against the appellant for damages. This further demonstrates the appellant's lack of interest and unvigilant attitude towards pursuing the matter.

This application, after its admission on 05.12.2022, has come up for hearing for the first time. Between 05.12.2022 and today i.e. 14.03.2025, a reasonable period of more than two years, no effort has been made by the appellant to have this application fixed before this Court. Even today, no one is present, which reflects an ongoing lack of interest on the part of the appellant.

In these circumstances, listed application for restoration of the appeal, being meritless, is **dismissed**.

JUDGE

Abdul Basit