

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Revision No. S – 238 of 2025

Date of hearing	Order with signature of Judge
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Fresh case

1. For orders on CMA No.1602/2025 (U/A)
2. For orders on CMA No.1603/2025 (E/A)
3. For hearing of main case
4. For orders on CMA No.1604/2025 (S/A)

17.11.2025

Mr. Ameer Bux Shambani, Advocate for applicant.

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- 1.** Urgency is allowed.
- 2.** Exemption is granted subject to all just legal exceptions.

3 & 4. Learned Counsel for the applicant contends that the respondent had filed a suit which was dismissed by the learned trial Court by order dated 22.11.2024, which has discussed the merits of the case; as such, the dismissal being under Order XVII Rule 3, CPC, same had acquired conclusion. However, the respondent preferred to file an application under Order IX Rule 4, CPC, for restoration, which was also dismissed by the learned trial Court, to which an appeal has been filed under Order XLIII Rule 1, CPC, which is not available, as the dismissal on merits being made by the learned trial Court, restoration was never available, and accordingly, appeal does not lie, wherein remand order has been made.

Having heard the learned Counsel and gone through the record, apparently, the order dated 22.11.2024 was passed, irrespective to the discussion made therein, on the basis of default, wherein the last paragraph is relevant. The said dismissal being made on default, as stated by the learned trial Court, permitted the availability of Order IX Rule 4, CPC application for restoration, which was though not entertained by the learned trial Court, in the appeal same was allowed.

Learned Counsel further contending that a direction for early disposal and a cost having been imposed, no disturbance to the impugned order was found available, and accordingly, this civil revision is **dismissed in limine** along with pending application.

J U D G E