

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,**  
**MIRPURKHAS**

**Civil Revision Application No.S-57 of 2023**

**Applicant:** Ali Sher son of Asghar Ali through his special attorney Syed Ali Gohar Shah son of Mazhar Ali Shah,  
Through Mr. Sintosh Kumar J-Kalal, Advocate.

**Respondent:** Muhammad Khan son of Nabban,  
Through Mr. Tehseen Ahmed Qureshi, Advocate.

**Date of hearing:** 13.08.2025

**Date of order:** 13.08.2025

**O R D E R**

**Amjad Ali Sahito, J:** The applicant has challenged the order dated 23.01.2023, passed in Civil Misc. Appeal No.02 of 2022 by the learned Additional District Judge-II/MCAC, Mirpurkhas whereby learned trial court while dismissing Civil Misc. Appeal, upheld the order dated 09.03.2022 passed by the learned Senior Civil Judge-I, Mirpurkhas.

2. Following the service of notice, Mr. Tehseen Ahmed Qureshi represented the respondent No.1.

3. The learned counsel for the applicant has argued that the trial court dismissed the application under Order IX Rule 9 C.P.C on the ground of limitation and both the courts have failed to apply the law. He further submits that valuable rights of the applicant are involved in present matter and if the application is not allowed, he will seriously be prejudiced. Hence, it is argued that the impugned order is liable to be set aside.

4. The learned counsel for the respondent No.1 has supported the impugned order and prayed that application be dismissed.

5. I have given careful consideration to the contentions raised by the counsel for both the parties and have also gone through the relevant record submitted alongwith above application.

6. From perusal of record, it reflects that the case was dismissed for non-prosecution on 17.10.2019, and the restoration application under Order IX Rule 9 CPC read with Section 151 C.P.C was filed on 18.02.2022 well beyond the 30 days limitation prescribed under Article 163 of the Limitation Act. Both the trial court, in its order dated 09.03.2022, and the appellate court, in its judgment dated 23.01.2023, have concurrently found that the applicant's plea that his attorney was out of the country and that his mother was ill was wholly unsupported by any documentary proof, and mere oral assertions cannot constitute sufficient cause for condonation of such inordinate delay. The concurrent findings are based on proper appreciation of law and facts. Learned counsel for the applicant has failed to point out any illegality or material irregularity in the impugned order.

7. Consequently, the above Civil Revision Application being devoid of merits is dismissed.

**JUDGE**

*"Faisal"*