

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

IInd Appeal No. 8 of 1994.

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For hearing of CMA-307 of 2015. 2. For hearing of CMA-308 of 2015.

10.01.2019.

Mr. Atta Hussain Gaddi Pathan, Advocate for applicants alongwith Allauddin Abbasi, Asstt. Administrator Evacuee Trust Property, Hyderabad.

Dr. Hakimuddin, respondent No.1, present in person.

Mr. Wali Muhammad Jamari, Assistant A.G.

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1&2. Through civil miscellaneous application (CMA-308/2015), applicants seek to restore the instant IInd Appeal, filed in the year 1994 and lastly dismissed on account of non-prosecution on 22.08.2014 through the following order:-

*“This second appeal of 1994 was first dismissed in 2003 by order dated 29.10.2003 and its restoration application alongwith application for condonation of delay was filed after two years and six months on 07.05.2005, which were also dismissed for non-prosecution vide order dated 25.09.2006 and another application bearing CMA No.1476/2006 was filed for restoration of the earlier application for restoration. Even the said restoration application was dismissed on 18.05.2009 on merit and instead of filing an appeal against dismissal of application for restoration of restoration application, another restoration application was filed bearing CMA No.271/2009 and the record shows that from 2009, no serious efforts have been made to proceed with this application to contest the concurrent findings of two courts after 20 years. Today again nobody is in attendance nor any intimation is received, therefore, this application is also dismissed or non-prosecution, which even otherwise has no merits.”*

The restoration application itself is time barred by over 06 months. Record reflects that the instant IInd appeal has already been dismissed on account of non-prosecution more than twice in the past.

In the circumstances at hand, the said application, which is grossly time barred is dismissed with cost of Rs.5000/-. As a consequence thereof, CMA No.307/2015, which is also meritless, is also dismissed.

File be consigned to record upon payment of costs by the applicants within 07 days hereof.

JUDGE