

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

Suit 412 of 2015

-----  
Date: Order with signature of the Judge  
-----

For hearing of CMA No.4356 of 2024

**28.08.2024**

Mr. Masjood Ali, advocate for the plaintiff

This suit was dismissed for non-prosecution vide order dated 07.03.2024, which is reproduced herein below:

*“Despite intimation notice having been issued in the matter, yet again no one is in attendance on behalf of the parties, with the Order sheet reflecting that such absence has prevailed over several preceding dates and that the last appearance dates back to 15.04.2022. A note of caution also stands recorded on the previous date. Under such circumstances, the Suit stands dismissed for non-prosecution”*

Present application seeks for the order to be recalled and the suit to be restored. The only argument articulated is that the plaintiff / counsel had overlooked the case.

The record cited supra *prima facie* demonstrates the disinterest of the plaintiff in the present proceedings. No reasonable justification for the absence of the respective learned counsel has been articulated.

A party is required to remain vigilant with respect to legal proceedings; more so when the same have been preferred by the party itself. The truancy of the plaintiff from the proceedings under scrutiny is *prima facie* apparent and the same has also been admitted by the newly engaged counsel. Under such circumstances it was the prerogative of the Court to determine the proceedings and that is what appears to have been done. Counsel remained unable to justify the persistent absence and no case has been made out to condone the default. The Supreme Court has observed in *Nadeem H Shaikh*<sup>1</sup> that the law assists the vigilant, even in causes most valid and justiciable. The fixation of cases before benches / courts entails public expense and time, which must not be incurred more than once in the absence of a reason most genuine and compelling. Default is exasperating and such long drawn ineptitude cannot be allowed to further encumber pendency of the Courts.

In view hereof, listed application is dismissed.

Judge

<sup>1</sup> Per Qazi Muhammad Amin Ahmed J. in *SECP vs. Nadeem H Shaikh & Others (Criminal Appeal 518 of 2020)*; Order dated 27.10.2020.