

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
 Suit No.1277 of 1989

Date	Order with signature of Judge
	1. For hearing of CMA No.4211/2016.
	2. For hearing of CMA No.17291/2023.
	3. For hearing of CMA No.17292/2023.
	4. For hearing of CMA No.17293/2023.

02.04.2024.

Mr. Ahmed Ali Hussain, Advocate for the Plaintiff.  
 Mr. Muhammad Yameen, Advocate for the Defendant No.2.  
 Chaudhry Muhammad Waseem, Official Assignee.

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1. This application is directed against the Order dated 26.01.2016, whereby the Suit was dismissed for non-prosecution, and seeks that such Order be recalled so that the Suit be restored to its position as on that date. A perusal of the Order sheet and the application reflect that on 04.08.2015, due to the absence of representation on behalf of the Plaintiff, a note of caution was recorded that in the event of a failure to appear on the next date, the Suit would liable to be dismissed. Thereafter, on 02.12.2015 counsel had appeared and made a statement that the brief had been withdrawn from him by the Plaintiff. Thereafter, no representation on behalf of Plaintiff was forthcoming on the next two dates, culminating in dismissal of the Suit on the aforementioned date. The only ground that has been raised in the listed application is by way of allegation against counsel that a misstatement had been made before the Court regarding the withdrawal of the brief, and that the Plaintiff had not been intimated to appear on the date in question. However on query posed, as to whether any complaint has been made to Bar Council in that regard, it was conceded that such step had not been taken. Furthermore, as pointed out by the learned Official Assignee with

Reference to the Orders dated 31.08.2006, 25.09.2006, 02.08.2007 and 07.04.2008, it transpires that the Suit had earlier been dismissed for non-prosecution, with the application for its restoration also meeting the same fate, whereafter such application was then restored followed by restoration of the Suit. Under such circumstances, it was incumbent upon the Plaintiff to have remained vigilant. In view of the foregoing, no case for indulgence stands made out and the application stands dismissed.

2-4. In view of the Order made on CMA No.4211/2016, these applications also stand dismissed accordingly.

JUDGE

Tariq