

IN THE HIGH COURT OF SINDH, KARACHI
High Court Appeal No. 42 of 2023
[Syed Amar Khan & another v. Sahibzada Khan and others]

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Osman Ali Hadi

- 1.For orders on office objection
- 2.For hg of main case
- 3.For hg of CMA No.733/23

05.05.2025.

Mr. Imtiaz Ali Shah, advocate for appellants.
Mr. Muhammad Nadeem Khan, advocate
for respondent Nos.3 to 6.

O R D E R

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MUHAMMAD IQBAL KALHORO J: This appeal has been filed by appellants against an order dated 22.11.2022, whereby while disposing of 11 CMAs for different reliefs CMA No.11926 of 2021, under Order 1 Rule 10 CPC was dismissed in non-prosecution in Suit No.1128 of 2008.

2. Learned counsel for appellants is concerned only with the said application i.e. CMA No.11926 of 2021, and application for restoration thereof which was dismissed by an order dated 07.02.2023. It may be noted all these applications were disposed of when the suit was fixed for final arguments.

3. We have heard the parties and perused material available on record. CMA No.11926 of 2021 was dismissed in non-prosecution because no one was present to pursue the same on the given date and subsequently application for restoration of the said application was taken up on 07.02.2023 and dismissed. The order shows that learned counsel appearing for the appellant had refused to argue the suit and was making a request to only recall the order of dismissing the application in non-prosecution and in view thereof the application was

dismissed. Learned counsel for appellants has attempted to argue that the plaintiff has no objection to the application filed by defendant No.8, hence application be allowed. However, we do not agree with such proposition as learned counsel has failed to show what error or illegality has been committed by learned single Judge in both the impugned orders. Application was dismissed in non-prosecution when no one was present to pursue the same. Subsequently when the restoration application was fixed for arguments the counsel despite urged refused to argue the suit and showed his interest only in restoration of application leaving no option to the Court but to dismiss the same. It is also observed by learned single Judge that the suit is fixed for final arguments and the plaintiff on one pretext or the other is moving various applications to delay its disposal. We, therefore, do not find any merit in this appeal, and dismiss it along with pending application.

The appeal is accordingly disposed of in above terms.

JUDGE

JUDGE

HANIF