

ORDER SHEET
**HIGH COURT OF SINDH CIRCUIT COURT,
HYDERABAD**

C.P No.S-486 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of M.A No.1295/2024

19.09.2025

Mr. Imam Bux Baloch, advocate for petitioner

Through listed application, learned counsel seeks setting aside Order dated 13.12.2023, whereby restoration application (M.A No.1997/2023) was dismissed due to non-appearance of petitioner and his counsel. Record reflects that this petition was dismissed for non-prosecution on 01.11.2013 and the petitioner moved restoration application bearing M.A No.1997 of 2023 that too was dismissed for non-prosecution on 13.12.2023 since petitioner and his counsel were called absent without intimation on the fateful day.

It appears that in listed application petitioner is seeking restoration of restoration application (M.A No.1997/2023) has been filed on 30.10.2024 i.e with the delay of about 10 months and 18 days and even no application for condonation of delay has been filed.

Counsel argued that they were not on notice about fixation of case, as such could not appear and listed application has been filed with delay. He further submits that law prefers decision on merit instead on technicalities.

Heard and record perused. The argument of not issuing notice about fixation of case is blind by the 'intimation notice' dated 01.12.2023 issued by the office of this Court to the learned counsel on the office address mentioned by him in his Vakalatnama, that pertains to his hometown, informing him that the matter is fixed on **13.12.2023 at 08:30 am for orders on M.A (Restoration Application)**. The main petition had already been dismissed for non-prosecution, therefore, the petitioner and his counsel could have more vigilant about their case, but instead they chose to remain absent on the fateful day.

Record further reflects that main petition was also earlier dismissed for non-prosecution vide Order dated **13.10.2022**, however, same was restored on **18.05.2023** on the application filed by petitioner's counsel, even then the petitioner and his counsel did not mend their ways and they were called absent on **04.09.2023** and on subsequent date viz: **01.11.2023**, as such petition was again dismissed for non-prosecution on 01.11.2023 and on the very next date viz: **13.12.2023** though the counsel for the petitioner filed restoration application yet

again remained absent, therefore, the restoration application (M.A No.1997/2023) met with the same fate, whereas the listed application has been filed with the delay of ten months and 18 days from the date of dismissal. In this regard Article 163 of the Limitation Act, 1908 being relevant is reproduced hereunder:-

163.- By a plaintiff, for an order to set aside a dismissal for default of appearance or for failure to pay costs of Thirty days. The date of the dismissal. service of process or to furnish security for costs.	Thirty days.	The date of the dismissal.
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Since the law of limitation has provided a specific time limit for filing of application in this respect i.e 30 days, therefore, no Court can extend the time period in any circumstances.

As regards the argument that law prefers decision on merit rather on technicalities, this argument, in my view, goes against the petitioner, as the listed application is barred under Article 163 of the Act *ibid*, yet no application has been filed for condonation of such inordinate delay. No one can be allowed to file litigation and/or any application at his/her leisure. He/she must adhere to the provisions of Limitation Act, which sets specific time limits for initiating legal actions. The provisions of Limitation Act are based on the principle that there should be an end to litigation and that individuals should not be sleep on their rights but be vigilant in pursuing them. Perusal of record shows that even after dismissal of restoration application the petitioner and his counsel remained absent on very subsequent date viz: 11.08.2025. This careless attitude on the part of the petitioner and his counsel disentitles the petitioner for relief as prayed for in the listed application. Reliance can be placed on the case of *Mst. Riyasat Begum vs. Ejaz Ahmad and another* (2013 CLC 597 - Peshawar).

In view of the above, listed application being barred by limitation is hereby dismissed.

JUDGE

Sajjad Ali Jessar