# SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

**Present:**

Justice Muhammad Ali Mazhar
Justice Musarrat Hilali
Justice Shahid Bilal Hassan

**Civil Petitions No.903 and 904 of 2026**
Against the orders dated 23.02.2026 passed by Lahore High Court, Lahore in C.M.1/2026 in Civil Revision No.1717 and 1718/2016
**C.M.A.2300/2026 IN C.P.L.A.903/2026 and**
**C.M.A.2301/2026 IN C.P.L.A.904/2026**
(Stay applications)

Safdar Ali Butt ...Petitioner

***Versus***

Faisalabad Development Authority, Faisalabad through its D.G. and others ...Respondents

| | |
|---|---|
| For the Petitioner: | Mr. Naseem Ullah Khan Niazi, ASC (in both cases) |
| For Respondents 4-8: | Mr. Aftab Alam Yasir, ASC |
| For Respondents 1-3,9: | N.R. |
| Date of Hearing: | 23.07.2026 |

## Judgment

**Muhammad Ali Mazhar, J**. The aforesaid Civil Petitions for leave to appeal are directed against the Order dated 23.02.2026, passed by the learned Lahore High Court whereby Civil Miscellaneous Applications filed by the petitioner for restoration of Civil Revision Nos.1717/2016 and Civil Revision No.1718/2016 were dismissed.

2. On the last date of hearing, notice was issued to the respondents. In response thereto, only respondents No.4 to 8 are represented, whereas nobody is present on behalf of respondents No.1 to 3 & 9.

3. The learned counsel for the petitioner argued that both the Civil Revisions were dismissed for non-prosecution on 02.02.2026, whereafter applications for restoration were filed before the learned

High Court immediately on 03.02.2026 without any delay. He further contends that Mr. Shahid Azeem Bajwa, learned counsel who was representing the petitioner was present on the date of hearing but he was suffering from Coronavirus, hence he stayed outside the Court and when the both civil revisions were called for hearting, he rushed to the Court but could not approach the bench due to heavy rush in the Court and in the meanwhile, the civil revisions were dismissed for non-prosecution.

4. Quite the opposite, the learned counsel for respondents No. 4 to 8 argued that the restoration applications were not supported by any affidavit, thereby rendering the explanation furnished therein unsubstantiated. However, the learned counsel neither denied that the counsel was not suffering from Coronavirus nor attributed any intentional or deliberate attempts on the part of the counsel for the petitioner which caused the delay in the decision of long pending revision applications expeditiously.

5. Heard the arguments. It is a matter of record that the restoration applications were filed promptly on the very next day. The personal grounds for non-appearance in the Court were properly mentioned which were not denied. Though both the revisions were pending in the learned High Court since 2016 but neither in the order it is jotted down whether in past also the conduct of petitioner's counsel was callous and he was not sincerely pursuing the case and seeking undue adjournments or he is solely responsible for the delay in the disposal of revisions application which are surprisingly pending since 2016 nor any track record is visible for shifting any responsibility on the petitioner or his counsel for such long pendency. In absence of such details, nothing is preventing us to comprehend that the revision applications were dismissed first time and restoration applications were filed the very next day which demonstrates that the petitioner wanted to pursue his cases diligently and conscientiously,

otherwise, there was no occasion to file the restoration application on very next day.

6. It is understood and indeed no exception can be taken that the absolute vigilance from an advocate is a foundational requirement to protect a client's case from being dismissed in default which is also reverberated across the world with one voice by dint of a legal maxim *"Vigilantibus et non dormientibus jura subveniunt",* thereby implying that the law assists the vigilant, not those who sleep over their rights. By and large, when a lawyer fails to appear to prosecute the lawsuit on the date of hearing, the court exercises its discretion to dismiss the suit for non-prosecution. If an advocate lacks a sense of his professional duty, the ultimate sufferer is the client who engaged the advocate on reposing confidence in him but at the same time, the client should also be vigilant and pursue his case diligently without leaving everything on the lawyer and should not opt to put out of sight or play hide and seek tactics based on the advocate's inattention or negligence. To ensure effective performance of professional ethics and further to avoid allegations of professional misconduct or violation of canons of practice, the lawyers ought to properly track fixation dates, cause lists and court benches to avoid missing of cases due to human error and should also make all best possible efforts to handle every facet and dimensions of the lis to protect his client's interests in accordance with the law. He should also keep his client updated on case progress, risks and even the settlement offers if any and also evade conflicts of interest.

7. In case of overlapping and simultaneous commitments in different courts of law, advocates ought to make alternate arrangement for holding brief even for adjournment requests or must file proper application for adjournment in advance with prior information to the other side's counsel as a matter of professional ethics. Sometimes the court dismisses the law suit when despite

various opportunities afforded by the Court to proceed the case or producing evidence, the party and his counsel persistently and calculatingly disappear either due to lack of interest or to drag the proceedings for avoiding well-timed disposal on merits. Dismissal in default of a case on the negligence of advocate without well-grounded sanity is one of the most serious blemishes which disparage and tarnish the professional image and reputation. Universally, a dismissal due to non-prosecution is considered a plainspoken ineptitude of the lawyers and also breach of client's trust which also sets the stage for filing complaints against the lawyers alleging professional misconduct to the Bar Councils under the Legal Practitioners and Bar Councils Act, 1973.

8. In contrast, we cannot turn a blind eye to the well-settled doctrine of restoration of a case which gives carte blanche to the Courts to resuscitate the lawsuit dismissed in default if sufficient cause is put on view and dictates of justice so demand. If the sufficient cause is pleaded through a promptly filed application for restoration within the limitation period and satisfactorily explained the absence on the date of hearing, the eventual consensus of the courts across the board is to lean toward compassion. The all-encompassing philosophy of justice articulates that lawsuits must be decided on merits rather than technical knockouts or due to procedural oversights or inadvertences. Albeit, the benefit of a lenient approach cannot be regarded as absolute. The scale of justice neither tilts towards automatic dismissal nor the automatic restoration but it should be with a balanced frame of mind and also subject to the law of limitation to ward off and protect a genuine litigant from suffering due to counsel's blunders, while delineating a strict dividing line against premeditated recklessness versus genuine and honest ground pleaded for restoration of case to its original position. Promptly filing of a restoration application with satisfactory or sufficient cause deserves lenient view if no contumacious negligence is made out.

9. The force majeure circumstances/unexpected situations including physical incapacitation or medical emergencies are ordinarily acknowledged as convincing grounds to exercise inherent/discretionary powers by the Courts for restoration of case to meet the ends of justice with or without imposing costs because the indispensable purpose of a court is to determine the actual disputes as an elementary virtue of administration of civil and criminal justice being mindful that rules of procedure are meant to serve justice and not obstruct it. At times, the casual dismissal of restoration application without peering the grounds thoughtfully pauses the chain of trial and activates the multiplicity of proceedings and instead of determining the primary cause of action, the machinery of the judicial system is inverted into an auxiliary procedural confrontation in the higher Courts rather than shortening the litigation.

10. In fact, the principles of "Judicial economy" and "multiplicity of proceedings" are two fundamental legal ideologies which give prominence to an inevitability of ensuring expeditious and efficient adjudication so that the judicial system should move forward effectively without wasting time. Indeed, both principles are two sides of the one and the same coin reminding judicial economy to prevent the multiplicity of litigation, conservation of judicial resources and also advocate the doctrine of finality of judicial proceedings.

11. In the case of Mrs. Faryal Arif Latif versus Mr. Arif Latif **(2025 SCMR 395)**, it was held by one of us while speaking for the bench that the rules framed under the CPC are for advancing the dispensation of justice, rather than supplementing or complementing it to defeat the ends of justice. It would be somewhat apt to refer the case of Narsingh Das v. Mangal Dubey **[(1883) ILR 5All 163],** which reiterates that even in ancient times, the Courts emphasized that they are not to act upon the principle that every procedure is to be taken as prohibited unless expressly provided for by the Code, but on the converse principle that every

procedure is to be understood as permissible until it is shown to be prohibited by law. The function of the court is to administer substantial justice between the parties after providing ample opportunity for hearing which is a significant component and virtue of a fair trial, whereas the procedure serves as a machinery with the object of facilitating and not obstructing the administration of justice. Therefore, it ought to be construed liberally and, as far as possible, technical objections should not be allowed to defeat substantial justice.

12. This Court, in the case of Imtiaz Ahmad v. Ghulam Ali **(PLD 1963 S.C.382)**, held that the proper place of procedure in any system of administration of justice is to help and not to thwart the grant of rights to people. All technicalities have to be avoided unless it is essential to comply with them on grounds of public policy. The English system of administration of justice, on which our own is based, may be, to a certain extent, technical. However, we are not to take from that system its defects. Any system which, by giving effect to the form and not to the substance, defeats substantive rights, is defective to that extent. The ideal must always be a system that gives to every person what is his.

13. According to *Corpus Juris Secundum*, Volume 21 (page 136): "While a Court may be expressly granted the incidental powers necessary to effectuate its jurisdiction, a grant of jurisdiction, in the absence of prohibitive legislation, implies the necessary and usual incidental powers essential to effectuate it, and subject to existing laws and constitutional provisions, every regularly constituted Court has power to do all things that are reasonably necessary for the administration of justice within the scope of jurisdiction and for the enforcement of its judgments and mandates." The indispensable mission of a judge is to administer justice and settle disputes between the parties impartially and in accordance with the law of land. According to Ulpian, the Roman jurist, "Justice is the constant and perpetual will to allot

to every man his due." As said by Martin Luther King, delayed justice is equal to injustice. Conversely, another maxim states that "justice hurried is justice buried," which serves as a caveat against hurried judgments for the sake of expediency. This axiom also suggests that justice is compromised when legal proceedings are rushed and concluded without following the norms of justice, or affording the right to a fair trial or due process of law. Therefore, in all fairness, a proper distinction and balance must be maintained for the effective administration of justice.

14. The reasons pleaded for non-appearance on the date of hearing seem to be genuine which could not be shelved or brushed aside without due consideration. The adjudication of cases cannot be permitted to rest on hyper-technical considerations alone. Therefore, in our considered view, the impugned order appears to be harsh. The interests of justice require that the petitioner be afforded at least one fair opportunity to pursue the matter on merits, consistent with the constitutional mandate of fair trial and due process under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973.

15. In the wake of the above discussion, both the Civil Petitions are converted into appeals and allowed. As a consequence, thereof, the impugned orders are set aside; the restoration applications moved in the High Court (C.M.No.1/2026) in Civil Revision No.1717/2016 and Civil Revision No.1718/2016 are allowed and both Revision Applications are restored to their original position subject to payment of cost of Rs.10,000/-, in each case which shall be paid/deposited by the petitioner in the account of Medical Center, Lahore High Court Bar Association, at Lahore and receipts whereof be produced before the Registrar Lahore High Court for showing compliance. Since it is an old matter, we are sanguine that the learned High Court shall proceed with the Civil Revisions expeditiously and decide the same at the earliest. The petitioner is also directed to ensure his

representation on each and every date of hearing and shall not seek any unnecessary adjournments to drag the proceedings.

**C.M.As. No.2300 and 2301/2026**

Since the Civil Petitions have been decided, the stay applications are also disposed of accordingly.

Judge

Judge

Judge

ISLAMABAD
23rd July, 2026
Mudassar
Approved for reporting