

Form No: HCJD/C-121  
**ORDER SHEET.**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Civil Revision No.01 of 2023**

Faheem Ahmed Shah.  
VS  
Muhammad Nabeel.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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01.	05.01.2023	Mr. Muhammad Tayyib Malik, Advocate for the petitioner.
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Through the instant civil revision, the petitioner has assailed order and decree dated 11.10.2022, passed by learned Civil Judge 1<sup>st</sup> Class, West-Islamabad, whereby application filed by the petitioner under Order IX Rule 13 C.P.C., has been dismissed as well as order dated 06.12.2022, passed by learned Additional District Judge (MCAC)- West, Islamabad, whereby appeal filed by the petitioner has also been dismissed.

2. Learned counsel for the petitioner, *inter-alia*, contends that the respondent filed a suit against the petitioner, wherein National Highway Authority (NHA) was not a

party, whereas sole ground for dismissal of the application was that one Advocate namely Ms. Sadaf Sehar had filed Memo of Appearance on behalf of the petitioner, it has been held by both the learned lower courts that the petitioner had knowledge regarding pendency of the civil suit, so the petitioner deliberately failed to appear during the course of proceedings, hence the application was dismissed. Learned counsel pointed out that Memo of Appearance was filed in the Court on behalf of National Highway Authority (NHA), whereas National Highway Authority (NHA) is not a party in the case, so learned Trial Court has passed an order illegally, whereby on the basis of Memo of Appearance filed on behalf of National Highway Authority, presence of the petitioner was marked in the order, so the impugned order is erroneous and is not tenable under the law as the same has been passed against law and facts of the case and same is liable to be set-aside. Learned counsel further contends that on the same allegation a criminal case was registered

against the petitioner, wherein he was acquitted by the Court of competent jurisdiction and no appeal against acquittal was filed and said order has attained finality and seeks a direction for setting aside of the impugned orders.

3. Points raised, need consideration.

Notice to the respondents.

4. Re-list after two weeks.

**C.M. No.01 of 2023.**

Notice.

**C.M. No.02 of 2023.**

Exemption sought for is allowed subject to all just and legal exceptions.

**(TARIQ MEHMOOD JAHANGIRI)**  
**JUDGE**