

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD**

**JUDICIAL DEPARTMENT**

**C.M. No.2860 of 2020**  
**In**  
**W.P. No.1675 of 2015**

**Muhammad Adeel Javaid      Vs      Judge Family Court and another.**

Serial No. of order of proceedings	Date of order of proceedings	Order with signatures of judge, and that of parties of counsel, where necessary.
1	2	3

16.09.2022

Mr. Yasir Mehmood Advocate for applicant.  
Mr. Noman Ameen Farooqi and Muhammad  
Shakeel Mughal, Advocates for respondent No.2.

Through the instant application, applicant seeks restoration of Writ Petition No. 1675 of 2015, dismissed for non-prosecution vide order dated 03.09.2020.

2.      Learned counsel argues that he has not received any message about fixation of the matter during holidays and, therefore, could not appear on the date fixed. Further asserts that it is a well settled principle of law that the matter should be decided on merits rather on technicalities and that the matter involves valuable rights of the applicant, therefore, he may be afforded to present his case.

3.      On the other hand, learned counsel for respondent No. 2 submits that as per office report, learned counsel was duly informed about the fixation of the case through a message and that the matter was fixed in the Regular Cause List at Serial No. 2 in notice cases, therefore, the grounds being pressed to seek restoration are ill-founded and application may be dismissed.

4. Heard.

5. Perusal of record reveals that the main petition was dismissed for non-prosecution on 03.09.2020 while the application for its restoration was filed on 25.09.2020 i.e. within 30 days. Though, learned counsel for the respondent has vigorously contested the application yet in order to decide the controversy once for all, it would be in the interest of justice that the applicant should be afforded an opportunity to present his case.

6. At this juncture, it is necessary to mention that due to pendency of the instant writ petition, the proceedings in a family suit filed way back in 2011 are at-halt due to injunctive order.

7. It is clarified that no further adjournment on any account to any of the party shall be granted and in case the petitioner fails to ensure the presence of his representation on the next date of hearing the matter shall finally be decided on the basis of material available on record.

8. The instant application is allowed. Order dated 30.09.2020 is recalled and the main petition is restored to its original number. Let it be fixed on 26.09.2022.

**(ARBAB MUHAMMAD TAHIR)**  
**JUDGE**

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In

WP No.1675 of 2015