

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT.

Civil Revision No. 500/2019

Mukhtar Ahmed

Versus

Kamal Khan.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(01)	26.12.2019	Mirza Irfan Ghazanfar and Mr. Mazhar Akram Awan, Advocates for the petitioner.

Mohsin Akhtar Kayani J. Through this civil revision, the petitioner has assailed the order dated 12.11.2019, passed by learned Judicial Magistrate, 1st Class (West), Islamabad, whereby the right to file written statement of the petitioner has been closed.

2. Learned counsel for the petitioner inter-alia contends that petitioner has not been given his due right of hearing and his right of submission of written statement has been closed without appreciation of reconciliation proceedings, which were underway during the pendency of the matter. It has further been contended that the petitioner is ready to file written statement if one last opportunity is granted to the petitioner.

3. Arguments heard, record perused.

4. From the perusal of record, it has been observed that the respondent/ Kamal Khan has filed a civil suit for declaration, rendition of accounts and mandatory injunction on 24.12.2018 against Mukhtar Ahmad/present petitioner, wherein the present

petitioner put appearance before the Court on 25.05.2019 and he has been directed to file written statement on 26.06.2019, but on the said date written statement was not filed, the petitioner as well as other defendants were directed to file the written statement on the next date of hearing i.e. 22.07.2019 by using the words "تاکید کی جاتی ہے".

5. On 22.07.2019, the proceedings could not be conducted due to strike in the Bar and matter was adjourned to 12.09.2019, but no written statement was filed by the present petitioner, whereafter **قطعی آخری موقع** was given for the submission of written statement alongwith notice under Order VIII Rule 10 CPC. The case was adjourned to 26.09.2019, when application under Order VII Rule 10 CPC was filed and the case was adjourned to 23.10.2019, but again written statement was not filed and another notice in terms of Order VIII Rule 10 CPC was issued to the present petitioner and the case was adjourned to 02.11.2019.

6. On 02.11.2019, written statement was again not filed, despite several opportunities, whereby the learned Trial Court has imposed cost of Rs. 500/- and matter was adjourned to 12.11.2019, but petitioner remained negligent and has not filed any written statement, whereafter the Court has left no other option but to close down the right of the petitioner under Order VIII Rule 10 CPC.

7. From the above referred position, it reveals that the petitioner remained negligent in performance of his lawful duty to file written statement within stipulated period envisaged under the law.

8. The Court has given number of opportunities to the petitioner, even notice under Order VIII, Rule 10 CPC was given, which has to be construed strictly in terms of its penal consequences. Reliance is placed upon 1991 SCMR 2527 (The Secretary, Board of Revenue, Punjab, Lahore and another Vs. Khalid Ahmad Khan), 1987 SCMR 1365 (Sardar Sakhawatuddin and 3 others Vs. Muhammad Iqbal and 4 others), PLD 2001 Lahore 143 (Westinghouse Electric Corporation, the Quadrangle, 4400 Alafaya Trail Orlando, Florida, U.S.A and 3 others Vs. Wak Orient Power and Light Limited, Gulberg-III, Lahore), 1999 CLC 1856 [Karachi] (Haji Noor Muhammad Vs. Mrs. Nafees Shaukat).

9. In the light of above principles, no illegality has been observed in the order of the learned Trial Court as several opportunities were granted for filing of written statement to the petitioner, even fine of Rs. 500/- was imposed upon the petitioner and the موقع، قطعی اخرى موقع was also given by the learned Trial Court, but petitioner has failed to comply with the orders of the Court.

10. For what has been discussed above, petitioner has failed to justify his case, therefore, instant civil revision is misconceived and same is hereby dismissed in limine.

(MOHSIN AKHTAR KAYANI)
JUDGE