

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P No.2289 of 2020

Daud Arshad Watto & others
Vs
The Business and Industrial Co. Ltd. & others

Date of Hearing: 25.08.2020

Petitioner By: Rana Abdul Latif Khan Advocate.

Ghulam Azam Qambrani, J: Through this petition, the petitioner has invoked the jurisdiction of this Court filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with the following prayer;-

“ It is, therefore, respectfully prayed that the writ petition may kindly be accepted and the impugned order dated 08.02.2020 passed by learned Additional District & Sessions Judge, Islamabad-West may very graciously be set aside by restoring the suit, so filed by the petitioners in order to meet the ends of justice, fair play and equity.

It is further prayed that after restoration of the suit so filed by the petitioners, the case file may very kindly be sent to the Court of learned Additional District Judge-I-Ex-Officio Insurance Tribunal, Bahawalnagar as per the notification No. F.1 (41)/2012-A.II dated 20.02.2017 issued by the law and Justice Division, Government of Pakistan, in the best interest of justice.
Any other relief which this Hon'ble Court deems fit and proper may also be awarded to the petitioners.”

2. Brief facts of the petition are that the petitioners had instituted a suit for recovery of insurance amount against respondents No.1 to 7 before the Court of learned Senior Civil Judge, Bahawalnagar, which was entrusted to the Court of learned Civil Judge, Bahawalnagar. The case remained pending at Civil Court, Bahawalnagar, and in the meantime, Insurance Tribunal was established at Islamabad. The suit was dismissed under Order IX Rule 2 of CPC due to non-payment of

process fee vide order dated 12.05.2011. After dismissal of suit, the petitioners moved an application under Order IX Rule 4 read with Section 151 of CPC for restoration of the above said suit, filed by the petitioners and the same was also dismissed vide order dated 14.06.2013, due to non-prosecution and non-submission of proclamation fee. Thereafter, the petitioners filed an application for restoration of above referred case and for its transfer to the concerned Court, but the same was also dismissed vide impugned order dated 08.02.2020 by the Court of learned Additional District Judge, Islamabad-West, Islamabad, hence this petition.

3. Learned counsel for the petitioners has contended that the impugned order dated 08.02.2020, passed by respondent No.1 is against the law and facts; that the learned Additional District Judge, while deciding the matter also ignored the precedents of superior Courts to decide the matter on merits rather than on technicalities. Further contended that the impugned order passed by the learned Additional District Judge, Islamabad, is not sustainable under the law and the discretion has not been properly exercised by the learned Additional District Judge, Islamabad, and the matter in dispute has been decided without going into the merits and record available on file. Lastly prayed for acceptance of the petition.

4. I have heard the arguments of learned counsel for the petitioner and have perused the material available on record with his able assistance.

5. Perusal of the record depicts that the petitioners filed a suit for recovery of insurance amount against respondents No.1 to 7 before the learned Civil Judge, Bahawalnagar, which remained pending at Civil Court, Bahawalnagar. In the meantime, the Insurance Tribunal was established at Islamabad and the Court of learned Additional District Judge was designated as Insurance Tribunal. Suit of the petitioners was transferred to Islamabad and was entrusted to the Insurance Tribunal, therefore, the case remained pending and finally it was dismissed under Order IX Rule 2 of CPC due to non-payment of process fee vide order dated 07.06.2011. Record further reveals that during this period, the plaintiff Daud Arshad Watto died and his legal heirs were impleaded,

who engaged their counsel from Rawalpindi, but the petitioners failed to deposit the process fee and due to this reason, their suit was dismissed. After dismissal of suit, the petitioners moved an application under Order IX Rule 4 read with Section 151 of CPC for restoration of the above said suit, which was also dismissed vide order dated 14.06.2013, due to non-prosecution and non-submission of proclamation fee. Thereafter, the petitioners filed an application for restoration of above referred case and for its transfer to the concerned Court on 11.07.2019, about after six years of the dismissal of the earlier application for restoration of the suit, and that too without application for condonation of delay of six years. Said application was also dismissed vide impugned order dated 08.02.2020 by the Court of learned Additional District Judge, Islamabad-West, Islamabad, as the petitioners failed to explain the delay of six years in filing the application for restoration of the suit.

6. In view of the above, it seems that the petitioners are not interested to pursue their case. It is a renowned maxim that law helps the vigilant and not the indolent. Learned counsel for the petitioners has not been able to point out any illegality or irregularity in the impugned order passed by the learned Additional District Judge, Islamabad-West, warranting interference by this Court in its constitutional jurisdiction.

7. The instant petition having no force, is hereby **dismissed in limine**.

Ghulam Azam Qambran]
Judge

S.Akhtar