

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

Civil Revision No. 270/2019
Kamran Khan and another
Versus.
Sher Zaman and others

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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11.07.2019	Hafiz Liaqat Manzoor Kamboh, Advocate for the petitioner. Rai Zahid Ayub, advocate for the respondents.
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Through the instant civil revision petition, the petitioners impugn the order dated 10.06.2019, whereby the petitioners' right to produce evidence was closed by the learned Civil Court by invoking the penal provisions of Order XVII, Rule 3 C.P.C.

2. Learned counsel for the petitioners drew the attention of the Court to the order dated 30.05.2019, passed by the learned Civil Court, which shows that on the said date, the proceedings were adjourned to 08.06.2019, which happened an Eid holiday.

3. Learned counsel for the petitioners further submitted that the matter was fixed on 10.06.2019 without any notice to the petitioners; and that since the petitioners did not know about the case being fixed on 10.06.2019, they could not appear before the learned Civil Court on the said date. Learned counsel for the petitioners prayed for the revision petition to be allowed and for the impugned order dated 10.06.2019 to be set aside.

4. On the other hand, learned counsel for the respondents submitted that although 08.06.2019 was a holiday, but had the petitioners made proper and necessary enquiries, they would have found out that the next date of hearing before the learned Civil Court was 10.06.2019; and that the petitioners could not be given any premium over their negligence. Learned counsel for the

respondents prayed for the revision petition to be dismissed.

5. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

6. The order sheet reveals that on 23.04.2019, the cross-examination of PW-1 was recorded and the matter was adjourned to 29.04.2019 for the cross-examination of the remaining PWs. On 29.04.2019, the matter was taken up for hearing on three occasions, but no one tendered appearance on behalf of the defendants. The matter was adjourned to 15.05.2019 with a final opportunity to the defendants to cross-examine the PWs. On 15.05.2019, the matter was adjourned to 23.05.2019 on the request of the learned counsel for the defendants. On 23.05.2019, the Presiding Officer was on leave and the matter was adjourned to 30.05.2019. On 30.05.2019, the matter was taken up for hearing on two occasions, but only the clerk of the learned counsel for the defendants appeared and sought an adjournment on the ground that the learned counsel for the defendants was in *Atakaff*. The learned Civil Court adjourned the matter to 08.06.2019 with the notice to the defendants under Order XVII, Rule 3 C.P.C.

7. It is an admitted position that 08.06.2019 was a public holiday. The matter had been fixed for hearing on 10.06.2019, whereon the defendants' right to cross-examine the PWs, was closed since only the clerk of the learned counsel for the defendants had appeared before the learned Civil Court. Since the presence of the clerk of the learned counsel for the defendants on 10.06.2019 was recorded in the order sheet, the learned counsel for the petitioners/defendants cannot assert that he was unaware as to the case being fixed on

10.06.2019. Furthermore, the defendants and their learned counsel should have been vigilant since a notice under Order XVII, Rule 3 C.P.C. had been issued by the learned Civil Court. However, in the interests of justice, I am allowing this petition subject to the costs of Rs.20,000/- payable to the respondents/plaintiffs on the next date of hearing before the learned Civil Court. The learned Civil Court shall not entertain any requests for adjournment from the petitioners/defendants.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Senaulah*