

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. **JUDICIAL DEPARTMENT.**

Writ Petition No. 467/2021

Abid Naeem.

Versus

Learned Civil Judge (West), Islamabad & others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(01)	03.02.2021	Dr. G. M. Chaudhry, Advocate for the petitioner.

The petitioner is aggrieved by order dated 11.01.2021 that restored the civil suit which was dismissed by order dated 28.05.2019 was restored.

2. Learned counsel for the petitioner states that the restoration application was filed on 03.12.2019 in relation to which the impugned order was passed after a period of 155 days beyond the limitation period prescribed under Article 163 of the Limitation Act, 1908 ("Act"). Learned counsel further states that the impugned order is in breach of Section 3 of the Act, which is a mandatory provision and further that no condonation of delay application was filed under Section 5 of the Act. Learned counsel further states that the reasoning for the unexplained delay in filing of the restoration application was that the counsel could not find the case on the cause list for the period of 155 days and states that it is settled law that mistake of the counsel is not an excuse where it comes to mandatory provision of the Act.

3. Issue notice to respondents No.2 & 3. Respondent No.2 may file a response to this petition, if

he so wishes, by or before 18.02.2021 with an advance copy to the learned counsel for the petitioner.

4. Re-list on 01.03.2021.

C.M. No.01/2021

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

C.M. No.02/2021

Notice. Meanwhile, operation of the impugned order dated 11.01.2021 shall stay suspended till the next date of hearing.

**(BABAR SATTAR)
JUDGE**

A. Rahman Abbasi