

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Umar Ata Bandial
Mr. Justice Sajjad Ali Shah
Mr. Justice Syed Mansoor Ali Shah

C.M.A No.11338 of 2021 in Civil Petition No.3184/2017

(For recall of order of this court dated 06.10.2021, and restoration of Civil Petition No.3184/2017)

Azmat Towellers (Pvt.) Ltd Multan

..... Petitioner(s)

Versus

Khalid Anwar, etc

.....Respondent(s)

For the petitioner(s): Syed Rifaqat Hussain Shah, AOR.

For the respondent(s): Ch. Abdul Ghani, ASC.

Date of hearing: 17.12.2021

ORDER

Syed Mansoor Ali Shah, J.- This is an application for restoration of the titled petition, which was dismissed for non-prosecution on 06.10.2021. The order of dismissal of the petition records that no one tendered appearance on behalf of the petitioner, the learned AOR or the learned counsel for the petitioner on the said date.

2. The ground for restoration in the instant application is that the learned counsel for the petitioner was present in Court but had stepped out to the wash-room and by the time he returned the case had been dismissed for non-prosecution.

3. Today the learned counsel for the petitioner is not present and the learned AOR has made the above submission. We have examined the record of the case and have noticed that the learned counsel for the petitioner has not sworn an affidavit to certify the above facts. Additionally, the record of the Court Associate for 06.10.2021 does not reflect that the learned counsel or any representative of petitioner was present in court that day. No request was made by the learned counsel for restoring the case after he returned to the court-room that day and no such ground

has been pleaded in the instant application. The restoration application also does not give any excuse or justification for the absence of the representative of the petitioner company or the learned AOR. We have recently held in *Falah ud Din*¹ that "the AOR is defined as an Advocate, who is to act and plead for a party in the Supreme Court. The definition of "party" also include an AOR, when such a party is represented by the AOR. Rule 2 of Order IV states that the AOR is entitled to appear and plead before the Court on signing his respective roll. Rule 6 of the said Order provides that no Advocate other than AOR shall appear and plead on behalf of the party unless he is instructed by the AOR while Rule 15 states that no Advocate other than AOR shall be entitled to act on behalf of a party in any proceedings in the Court. Rules 22 and 26 underline that every AOR on submission of his power of attorney shall act on behalf of the party and that no person having an AOR shall be heard in person except with specific leave of the Court." Order I, Rule-2 and Order 4, Rules 2, 6, 15, 22, 26, 30, 31 and 32 of the Supreme Court Rules, 1980 ("Rules") clearly show that the principal responsibility under the Rules to act, appear and plead on behalf of the party is that of the AOR. It is the AOR who engages the ASC and it is on instructions of the AOR that such ASC pleads the case of the party. Engagement of the ASC does not absolve the AOR of his primary responsibility to attend to the case on behalf of the party before the Court and in case the ASC is not available, it is the responsibility of the AOR to appear and plead the case of the party.

4. In the present case, the learned AOR did not appear on the date when the case was dismissed for non-prosecution and there is no reason given in the instant application for his absence. A case before any court, in particular, before the highest court of the land, ought to be attended to with utmost responsibility and seriousness. The concept of enrolling the AOR at the Supreme Court is to ensure that cases filed in the Supreme Court are handled with meticulous care and responsibility and to ensure certainty of representation before the Court. In this case, it is more than evident that the learned AOR has fallen short of his

¹ PLD 2021 SC 940

responsibility expected of him under the Rules. He has not even bothered to furnish any explanation in the instant application regarding his absence on the fateful day.

5. For the above reasons, we find that there is no merit in the instant application, which is, therefore, dismissed.

Judge

Judge

Islamabad,
17th December, 2021.
Approved for reporting
Sadaqat

Judge