

FORM "A"

(8)

FORM OF ORDER SHEET

IN THE COURT OF SYED ABBAS BUKHARI, CIVIL JUDGE/JUDICIAL MAGISTRATE/CJ-II, KALAYA ORAKZAI

Case Title: _____ Vs _____

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order 18	16.06.2023	<p>Parties through clerk of counsels present.</p> <p>Vide this order I intend to dispose of instant application for restoration of suit no. 31/1 of 2022.</p> <p>Arguments already heard and record perused.</p> <p>Now on perusal of the record and valuable assistance of both the learned counsels for the parties, this court is of the view that the suit in hand was previously dismissed in default due to non-appearance of petitioners vide order no. 24 dated 18.07.2022. Perusal of the record further transpire that the application in hand was filed on 01.10.2022 i.e. about two and a half months of dismissal. It is also pertinent to mention here that the petitioners had also filed an application for condonation of delay under section 5 of The Limitation Act, 1908, wherein they allege that on 04.07.2022 he was ill while on 18.07.2022 petitioners were unable to appear before the court due to death of their relative. In given circumstances this court is of the view that the reason mentioned in the condonation of delay application pertains to the proceedings prior to dismissal of suit while under section 5 of The Limitation Act, 1908 the petitioner were under obligation to have disclose sufficient cause for filing the instant application after the expiration of the period of limitation, for the reason that under Article 163 of the Limitation Act 1908 the period of limitation for plaintiff to set aside order of dismissal for default of appearance is 30 days from the date of dismissal. Furthermore, perusal of para no. 02 of application for condonation of delay, filed by the present petitioners, would reveal that they had alleged therein that the application for restoration of suit is within time. In given circumstances the question arise that when the application for restoration of suit is within time, as per stance of petitioners, then why petitioners had filed the application for condonation of delay with the application for restoration of suit.</p> <p>In light of above discussion, as the instant application for restoration of suit is barred by limitation, hence accordingly same is dismissed being meritless. No order as to costs. Original record be returned to the quarter concerned. File be consigned to Record Room, Orakzai after its proper completion and compilation.</p> <p>Announced:</p>

16.06.2023

Syed Abbas Bukhari,

Civil Judge-II,

Tehsil Court Kalaya, Orakzai