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Or.....06
27.07.2021

Presence as before.

Through my this single order, I intend to dispose off an application for restoration of the suit titled as "Kohat Board Vs Muhammad Hayat", dismissed in default by this court on 21.11.2020, filed by the petitioner against the respondent.

The counsel for the petitioner argued that the petitioner was sick on the date fixed, that is why, he could not appear before the court and requested for its restoration.

The counsel for the respondent argued that the suit of the petitioner was dismissed on 21.11.2020 while the instant application for restoration of the suit was filed on 28.01.2021, therefore, the same is filed after the lapse of statutory period of limitation provided by the Article 163 of the Limitation Act, 1908 for restoration of a suit dismissed in default of the appearance of the plaintiff. At the end, he requested for the dismissal of the application.


Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am of the opinion that the suit of the petitioner was dismissed in default on 21.11.2020 while the instant petition was filed on 28.01.2021, i.e after the lapse of 30 days provided by Article 163 of the Limitation Act, 1908, thus, the same is badly time barred. Moreover, the petitioner has not filed any application for condonation of delay **u/s 5 of the Limitation Act, 1908**. Guidance in this respect is derived from SCMR 2005, page 609, Supreme Court of Pakistan.

Thus, in the light of aforesaid findings, the application in hand is hereby **dismissed** being time barred. Cost shall follow the event.

File be consigned to the record room after its necessary completion and compilation.

Announced
27.07.2021


(Rehmat Ullah Wazir)
Civil Judge-I,
Orakzai at (Baber Mela)