

03.12.2018

Present: Dr. Sajid Mahmood petitioner in person.

Mr. Waqas Azmat Advocate learned counsel for respondents.

Arguments heard.


The record reflects that petitioner filed complaint on 23.04.2015 in the District Consumer Court Gujrat. The respondents were proceeded against ex-parte on 07.05.2015 whereafter ex-parte evidence was recorded on 03.06.2015. At the time when matter was fixed for final arguments the complaint was dismissed due to non-prosecution on 01.07.2015. The petitioner filed application for restoration of complaint that was also dismissed due to non-prosecution on 27.09.2017. The petitioner again filed application for restoration of that application that was allowed on 25.10.2017. Thereafter the matter was decided vide order dated 13.01.2018. That order was assailed in RFA No. 163863/2018 and that was accepted by the hon'ble Lahore High Court Lahore vide order dated 02.10.2018 with the direction to resume the proceedings from the date of order dated 12.01.2018 and to decide the same strictly in accordance with law.

Contention of learned counsel for the respondent is that in fact application for restoration was to be decided. The record reflect that the assertion in this respect is correct.

As mentioned supra in the main complaint the respondents were proceeded against ex-parte and thereafter ex-parte evidence was recorded. The matter was fixed for final arguments when the same was dismissed due to non-prosecution for the restoration of which instant application was filed.

I am afraid that once the respondent was proceeded against ex-parte and thereafter ex-parte evidence was also recorded, it was no more a case that could have been dismissed due to non-prosecution. Rather the same should have been decided on the basis of material available on the record. Keeping in view this aspect of the matter application for restoration of complaint filed by the petitioner is allowed and the original complaint stands restored. Be annexed with the main file.

Announced
03.12.2018.


(Muhammad Sarfraz Akhtar)

District & Sessions Judge/ Presiding Officer,
District Consumer Court Mandi Baha-ud-Din