

**Faisal Hospital vs. Cummins Sale & Service.**

**Present:-**

**The learned counsels for the parties.**

**ORDER:-**

The applicant by filing this application has contended that he filed the complaint titled Faisal Hospital vs. Cummins Sale & Service which was pending before the court. The date 16.02.2017 was fixed for the evidence of the defendant but under a bonafide mistake, he took down in his record the date of hearing 25.02.2017 instead of 16.02.2017. On the date, for the reason no one could appear before the court on his behalf and the complaint was dismissed for non prosecution, therefore, the application may be accepted and his complaint be restored.

2. The respondent contested the application by filing written reply. He has denied from the version of the applicant.

3. Arguments heard, record perused.

4. The date 16.02.2016, was fixed for the evidence of the defendant. In fact, the date 15.02.2016, had been fixed for documentary evidence of the claimant and the defendant's evidence. On 15.02.2017, no one appeared before the court on behalf of the applicant / claimant and the complaint was adjourned on 16.02.2017.

On 16.02.2017, no one again appeared before the court on behalf of the claimant / applicant and the complaint was dismissed for non prosecution. The applicant has submitted his affidavit alongwith the application whereby he has sworn all the facts. The copy of diary of

his counsel reveals that the date 25.02.2017 was taken down by the applicant's counsel. As the counsel for the claimant has taken down the date 25.02.2017 instead of 16.02.2017, it may be deemed a good cause for non appearance before the court. Besides it, some valuable rights of the parties are involved in this case and the law favours adjudication on merits and discourages to knockout the parties on technical grounds. Hence, in the interest of justice, the application in hand is accepted subject to costs of Rs.2000/- as the complaint was dismissed because a mistake on behalf of the claimant. A copy of this order be attached with the file of the complaint and this file be consigned to the record room.

**Announced**  
**10.05.2017**

(Pervez Iqbal Sipra)  
District & Sessions Judge/  
Presiding Officer,  
District Consumer Court, Faisalabad

**Main file order.**

**Present:-**

**The learned counsels for the parties.**

**ORDER:-**

Vide order dated even passed in the application for restoration of this complaint, it is restored subject to costs of Rs.2000/- and it be entered in the concerned register. Now to come on for documentary evidence of the claimant on 24.05.2017 and it will be final last opportunity and ordinary, no more adjournment will be granted for the purpose.

**Announced**  
**10.05.2017**

**Presiding Officer,  
DCC, Faisalabad.**