SUPREME COURT OF AZAD JAMMU AND KASHMIR
[Appellate Jurisdiction]

PRESENT:
Ch. Muhammad Ibrahim Zia, C.J.
Ghulam Mustafa Mughal, J.

1. Civil Misc. No.137 of 2018
(Filed on 26.11.2018)

1. Muhammad Ramzan,
2. Abdur Rehman sons of Jalal Din, castes Jat residents of Burkay, Tehsil and District Mirpur.

……APPLICANTS

VERSUS

1. Mirpur Development Authority, Mirpur through its Director General/Chairmn, Mirpur.
2. Chairman/Director General, Mirpur Development Authority, Mirpur.
3. Estate Officer, Mirpur Development Authority, Mirpur.
4. Town Planner, Mirpur Development Authority, Mirpur.
5. Member Technical, Mirpur Development Authority, Mirpur.
6. Collector Land Acquisition, District Mirpur.
7. Collector District Mirpur.
8. Commissioner, Mirpur Division Mirpur.
9. Tehsildar Mirpur.
10. Patwari Village Sunkia, Tehsil Mirpur.
11. AJK Government through its Chief Secretary, Muzaffarabad.

…. RESPONDENTS

[Application for restoration]

FOR THE APPLICANTS: Mr. Khalid Rasheed Chaudhary, Advocate.

FOR THE RESPONDENTS: Mr. Muhammad Jamil Chaudhary, Advocate.

2. Civil Appeal No.138 of 2019
(Filed on 26.11.2018)

Tariq Mehmood son of Haji Qurban Hussain, caste Jaat resident of Bandral Town, Tehsil & District Mirpur.

……APPLICANT

VERSUS

1. Mirpur Development Authority, Mirpur through its Chairman, Mirpur.
2. Collector, District Mirpur.
3. Collector, Land Acquisition/Assistant Commissioner, Mirpur.
4. Chairman Mirpur Development Authority, Mirpur.
5. Commissioner Mirpur Division, Mirpur.
6. Director Estate Management, Development Authority, Mirpur.
7. Estate Department Development Authority, Mirpur through its Director Management.
8. Tehsildar, Mirpur.
9. Patwari mauzia Sankiah, Mirpur.
10. AJK Government through its Chief Secretary, Muzaffarabad.

…. RESPONDENTS

[Application for restoration]

FOR THE APPLICANT: Mr. Khalid Rasheed Chaudhary, Advocate.

FOR THE RESPONDENTS: Mr. Muhammad Jamil Chaudhary, Advocate.

Date of hearing: 21.05.2019

JUDGMENT:

       Ch. Muhammad Ibrahim Zia, C.J.– The captioned applications have been filed for restoration of the appeals No.75 and 159 of 2018 dismissed in default on 22.11.2018.

2.   Mr. Khalid Rasheed Chaudhary, Advocate, the learned counsel for the applicants stated that the default was not intentional rather it was due to some emergency. On the date of passing of the impugned orders, he was present in the Court, however, he had to go out of Court to washroom. By the time he returned back the orders of dismissal for want of prosecution were passed. The applications have been filed just after two days and are supported by his personal affidavits, therefore, the impugned orders be set-aside while restoring the appeals to original numbers.

3.   Conversely, Mr. Muhammad Jamil Chaudhary, Advocate, the learned counsel for the respondents submitted that no sufficient cause has been mentioned in the applications, therefore, the same are liable to be dismissed.

4.   We have heard the learned counsel for the parties and gone through the record. The appeals were dismissed for non-prosecution on 22.11.2018. The titled applications for restoration of the appeals have been filed within two days, which shows the bonafide of the applicants. The reason mentioned in

the applications for non-appearance is sufficient. The contents of the applications are supported by the affidavits of counsel for the applicants, whereas, no counter affidavit has been filed to rebut the same. Ordinarily, due weightage has to be given to the personal affidavit of the counsel. In this state of affairs, while accepting these applications the impugned orders dated 22.11.2018 are set-aside and the appeals No.75 and 159 of 2018 are restored to original numbers. The office shall place the files before the Court after due notification of date of hearing to the counsel for the parties.

These applications are accepted in the above terms with no order as to costs.

<div style="text-align:center">CHIEF JUSTICE   JUDGE</div>

Mirpur,
21.05.2019