

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.

Mr. Justice Javed Iqbal, Judge.

Mr. Justice Shahbaz Khan, Judge.

Civil Appeal No. 64/2016

In

CPLA No. 18/2015.

1. Bahadur Shah Son of Qabool r/o Sherqilla, Tehsil Punial
District Ghizer. **Petitioner.**

Versus

1. Contractor Rehman Shah Son of Abdul Qadir r/o Shikyote
Tehsil & District Gilgit. **Respondents.**

PRESENT:-

1. Mr. Sharif Ahmed Advocate alongwith Mr. Johar Ali
Khan Advocate-on-Record for the petitioner.

DATE OF HEARING: - 20.09.2016.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... Notice was issued to the respondent which was served upon him on 09.09.2016 but nobody is in attendance today. The learned counsel for the petitioner submits that on 19.03.2014 the petitioner appeared before the learned Gilgit-Baltistan Chief Court and made a request for an adjournment as his counsel could not appear being busy in National Accountability Bureau Court but the learned Gilgit-Baltistan Chief Court has erroneously dismissed the case of the petitioner for non-prosecution. He further submits that the petitioner being aggrieved filed application under Order 41 Rule 19 CPC well within time and sufficient grounds were also presented for restoration of the case but the same was also dismissed vide impugned order dated 25.06.2014, hence, the said impugned order is not sustainable and liable to be set aside.

2. He also submits that the learned Gilgit-Baltistan Chief Court instead of deciding the case on merit and without waiting the learned counsel for the petitioner, as request was made by the petitioner for an adjournment due to non-availability of his counsel, dismissed the case for non-prosecution.

3. We have heard the learned counsel for the petitioner at length, perused the record of the case file and gone through the impugned order dated 25.06.2014 passed by the learned Gilgit-Baltistan Chief Court. The perusal of the order sheet transpires that the petitioner was present in the court at the time of hearing of the case of the petitioner who requested for an adjournment which was turned down by the learned Gilgit-Baltistan Chief Court and the case was dismissed. The case cannot be dismissed for non-appearance when the petitioner is present in the court.

4. In view of the above discussions, we convert this petition into an appeal and the same is allowed. The case is remanded back to the learned Gilgit-Baltistan Chief Court to hear and decide the same in its own merits within a period of two months.

5. The petition is allowed in above terms.

Chief Judge.

Judge.

Judge.

Whether the case is fit to be reported or not?