

ORDER BELOW EXH-1

1. Present application has been filed by the applicant for restoration of the civil suit bearing R.C.S.No. 203/1995 which has been dismissed for default on 18/05/2018. The applicant further stated that, they had given the restoration application on 05/07/2018 vide No. C.M.A. 11/2018 which was also dismissed on 07/07/2023 and hence, for the restoration there is delay of 60 days. Hence, delay condon application is filed by the applicant.
2. After the filling the present application the notice were issued to other side and other side remain present through their advocate and file their reply vide Exh. 08, stating that, present application can not be allowed as the original suit was dismissed even the restoration application was dismissed and hence, present application should also be dismissed.

Till today the applicant had not remain present before the court to proceed with the matter it seems that, the applicant who is the palintiff in the original suit is not interested to proceed with the application. Moreover, the court had also gone through the judgment of Apex Court which as under :

The hon'ble High Court of Gujarat has held in case of PATEL SHANKARBHAI VIRABHAI V/S. PATEL NARAYANBHAI AMBALAL (CIVIL APPLICATION No. 426 of 2010 dated 10/11/2011) that 'A litigant cannot say that since he entrusted the matter to a lawyer he would thereafter go in slumber. A litigant also owes a duty to keep a constant watch on the proceedings.'

3. It is well settled that "the Law helps who awake and not the sleepy

person". So looking to the conduct of the applicant is very much clear that, the applicant did not remain present in the original suit and hence, the said suit was dismissed on the absence of applicant. Even in the present suit the applicant had failed to remain present since long so, it is transpires that, he does not want to proceed with the present application. The Court suo-moto granted the adjournment in interest of justice but neither the advocate appear nor the applicant remain present before the court. Today also the matter was listed in the board but the advocate didn't turned up to proceed with the application. Hence granting suo-moto adjournment would not be in interest of justice. Hence in the interest of justice following order is passed.

ORDER

1. Present application dismissed as default without going into merits of the said application.
2. No order as to cost.

Date : 06/07/2026
Place : Petlad

(ARUN J. VASU)
Addl. Sr. Civil Judge
Petlad
CODE : GJ01397

[J. S. Parmar]
Eng. Steno Gr. III