

ORDER SHEETO.A / MA / RA / CP NO. 508 OF 2005Applicant/s Abdul Samad Respdt/s U.O.T and U.P.Advocate for Applicant/s B.P. Yadav Advocate for Respondent/s R.C. Shukla

Notes of the Registry	Orders of the Tribunal	Sheet No. 18
	<p>M.A. No.4868 of 2009 IN O.A. NO 508/05</p> <p>12.3.2010.</p> <p>Hon'ble Mr. S.N Shukla, Member (A)</p> <p>Heard Shri B.P. Yadav, learned counsel for the applicant and Sri Anubhav Tripathi, learned counsel for the respondents.</p> <p>This O.A. has been dismissed in default all told on three occasions for various reasons such as not being able to reach in time etc. Last time the case was dismissed in default on 21.5.2009. In para 5 of the Recall Application, it has been contended that in respect of earlier restoration application, the date fixed on 24.04.2009. On that date, the case was adjourned for 21.5.2009. However, mistakenly the clerk of the counsel noted the date as 09.11.2009, resulting into default on 21.5.2009.</p> <p>It is to be noted that after the 'dismissed in default' order on 21.5.2009, the present M.A. for restoration has been filed only on 3.10.2009. The reasons for delay of filing restoration application has been stated, which is as under:-</p> <p><i>"3. That on 09.11.2008 when the counsel for the applicant came to the Hon'ble Tribunal but the case was not listed as such the counsel for the applicant enquired from office and came to know that the recall application dated 17.12.2008 has already been dismissed by this Hon'ble Tribunal on 21.5.2009".</i></p> <p>The Tribunal has considered the history of successive 'dismissed in default' in this case. Applicant has explained the reasons for default as being as mistake in noting down the date of hearing as 9.11.2009 instead of 24.4.2009.</p> <p>Prima facie, it does not sound convincing that a person will make a mistake and noted down a date, which has no similarity of phonix, numerals and even digits. Even otherwise it is seen from record that the case was never listed on 9.11.2009 and it was never fixed for hearing on 24.4.2009. Goes without saying that the affidavit dated 3.12.2009 has been filed without any verification of facts in most casual manner.</p> <p>With pain, this Tribunal is constrained to observe that the applicant is not serious in pursuing his O.A. in a diligent manner. The Court cannot come to rescue of applicant repeatedly who is not serious about his perusing affairs.</p> <p>In view of the above, M.A NO. 4868 of 2009 stands dismissed.</p> <p>Shri Abhinav Tripathi is present for the respondents.</p> <p><i>AM</i></p> <p>Manish/-</p>	Contd. On Sheet No. _____