

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

R.A No.98 of 2026

[Ikram Danish vs. Muhammad Javeed Khan]

Appellant	:	Ikram Danish s/o Hassan Ali Khan. Nemo.
Respondent	:	Muhammad Javeed Khan s/o Haji Muhammad Siddique Khan. In person
Date of hearing	:	09.09.2026
Date of decision	:	09.09.2026

ORDER

JAWAD AKBAR SARWANA J:- Ikram Danish, applicant/defendant, is aggrieved by the Order dated 05.05.2026 passed by learned IXth Additional District Judge, Hyderabad (“the trial Court”), in Summary Suit No.147 of 2025.

2. Counsel for the applicant/defendant is not in attendance. This Bench last heard the matter on 21.05.2026. I have perused the documents available on record, and this civil revision application marks the second round of litigation before this High Court in the revisionary stage. Earlier, when the trial Court allowed conditional leave to defend vide Order dated 18.02.2026, it was challenged by way of Civil Revision Application No.35 of 2026 before the High Court. Thereafter, the matter was remanded to the trial Court to decide the leave to defend application afresh and articulate the reasons therein. The impugned Order dated 05.05.2026 arises in connection with the second round of hearing of the leave to defend application in terms of the aforesaid revision Order dated 13.04.2026 passed by the High Court.

3. I have perused the impugned Order dated 05.05.2026 passed by the trial Court wherein the trial Court has specifically articulated its reasons for grant of the conditional leave to defend. In this connection, the trial Court observed that, as the allegation/defence involves the authenticity of the signature and handwriting on the negotiable instrument (promissory note/cheque), the issue of limitation is a mixed question of law and fact; hence, a case for granting conditional leave to defend is made out, and the summary suit cannot be dismissed on point of law alone. It is entirely the discretion of the trial Court in the summary suit whether or not to grant conditional or unconditional leave to defend. Given that, this time around, the trial Court has clearly articulated reasons for granting such leave to defend, I do not find any arbitrariness in the trial Court granting conditional leave to defend. Indeed, in the broader context, this is the second challenge to the leave to defend, and the conduct of the appellant/defendant does not inspire confidence, especially when the respondent has instituted summary proceedings.

4. It is pertinent to mention here that the plaintiff/respondent, who is in attendance today, has confirmed that he has not contested the conditional leave granting Order concerning furnishing of surety in the sum of Rupees Thirty Lakhs (Rs.30,00,000/-), which surety amount is less than the amount claimed by the respondent/plaintiff in the plaint, i.e. Rupees One Crore Thirty Lakhs (Rs.1,30,00,000/-), which compromises of (i) the Cheque bearing No.D-92241063 dated 20.04.2022 drawn on Meezan Bank and (ii) a promissory note for the amount of Rs.1,00,00,000/-. Incidentally, there appears to be some contradictions between the promissory note available at page-39 of the file, which was allegedly filed by the respondent/plaintiff with the plaint of the summary suit as attached by the appellant/defendant and the promissory note available at page-49, filed by the respondent/plaintiff with his objections dated 02.07.2026 in this revision application. Be that as it may, this matter is to be decided by the trial Court and not in revision.

5. Given the above, I do not find any ground for intervention in the impugned Order dated 05.05.2026, which has allowed conditional leave to defend to the applicant/defendant as well as reduced the quantum of the total amount claimed by the respondent/plaintiff in the summary suit. As such, there is neither any arbitrariness nor capriciousness in the impugned Order. In the circumstances, I find that the trial Court has exercised its discretion well within the contours of Order XXXVII Rule 3 CPC. Accordingly, the instant revision application stands dismissed.

JUDGE