

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

1st. Civil Appeal No.S- 30 of 2024

Hearing of case

1. For orders on office objection at flag 'A'
2. For hearing of main case
3. For hearing of CMA No.1194/2024 (S/A)

28.07.2025

Mr. Humail Rafi Mahessar, Advocate along with Appellant

Mr. Sajjad Ahmed Khokhar, Advocate holding brief for Mr. Aqleem Hyder Shar,
Advocate for Respondent

ORDER

Jawad Akbar Sarwana, J.: Appellant/defendant-Manzoor Hussain ("MH") has challenged the judgment dated 20.05.2024 ("the impugned Judgment") passed by Additional District Judge, Mirwah ("trial Court") in a Summary Suit No.136 of 2021 (*Re-Roshan Ali vs. Manzoor Hussain*) filed by Respondent/plaintiff, Roshan Ali, who alleged in the summary suit that he had sold a motor vehicle to MH in the sum of Rs.2,480,000, and received partial payment through a cheque of Rs.2,50,000/- while the remaining amount of Rs.2,230,000/- was to be paid through post-dated cheque, which ultimately on presentation to the Bank bounced/was dishonored. MH filed a leave to defend application, which was allowed subject to furnishing a surety. According to the impugned judgment, the original cheque, along with a memo of return, was produced, indicating that the account on which the cheque was drawn was the bank account of MH, and the said account had insufficient funds. MH, in spite of the directions of the trial Court, did not submit any surety.

MH's primary defence during today's appeal hearing is that the parties had agreed in advance that both cheques were to be returned by the respondent-plaintiff to MH, and the amount would be paid in cash in easy instalments. This was apparently part of the terms and conditions of an agreement. Yet, when this bench confronted the learned counsel for the appellant/defendant to identify such an agreement, neither was it available in the file nor articulated in the appeal. MH alleged in the appeal that he was not given an opportunity to present evidence in his defence. In contrast, according to the impugned Judgment, when the matter proceeded for evidence, MH had a full opportunity to cross-examine the Respondent/plaintiff's witnesses. Still, there is nothing available on record which controverts the documentary evidence produced by the Respondent/defendant. There appears to be no illegality or irregularity in the impugned judgment passed by Additional District Judge, Mirwah, which merits any interference by this Court. Accordingly, this 1st. Civil Appeal is dismissed for the above reasons with no orders as to costs.

Judge