

**THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Present:
Justice Jawad Akbar Sarwana

R.A.No. 148 of 2025

For orders as to non-prosecution.

Applicant : Dhanesh Puri s/o Kanwal Puri through Mr. Wishandas, Advocate.

Respondent : Mushtaque Ahmed Rind s/o Ahmed Baloch.
Nemo.

Date of Hearing : 10.12.2025
Date of Order : 10.12.2025.

ORDER

JAWAD AKBAR SARWANA, J: The applicant has filed this Revision challenging the impugned order dated 10.10.2025 passed by the learned 09th Additional District Judge, Hyderabad in Summary Suit No.114/2025. The applicant is aggrieved by the conditionality of leave to defend wherein the learned ADJ had granted conditional leave subject to furnishing solvent surety of Rs.21,50,000/- (Rupees Twenty One Lacs Fifty Thousand). The defendant is directed to furnish the requisite surety within 10 days without fail.

2. Counsel contended that such order was arbitrary and that in the circumstances the applicant ought to have been granted unconditional leave to defend. Additionally he contended that the applicant / defendant is a poor person and may not be able to arrange the requisite surety in order to defend the proceedings. Learned counsel relied on a statement of account consisting

of 77 pages and identified several dates showing transfer of funds from the applicant / defendant to the respondent / plaintiff.

3. Heard counsel. On perusal of the entries as per the statement of accounts the majority of entries are prior to the date of issuance of cheque dated 02.01.2025 and there are only two entries after the issuance of said cheque. The circumstances beg the question why a cheque was issued by the applicant / defendant when as per his own assertion the payment had already been made to the respondent / plaintiff as alleged by the learned counsel for applicant before this bench. In the circumstances, since it is in the discretion of the trial Court as to whether or not to impose condition at the time of granting leave to defend under the summary proceedings, I do not find any arbitrariness in the impugned order providing cause to interfere in the exercise of such discretion. In the circumstances the instant Revision Application is dismissed.

4. Notwithstanding the foregoing, even if the applicant / defendant is unable to arrange for surety, he will have the right of cross-examine the plaintiff / respondent which goes without saying. For removal of doubt the observations made by me are for the purpose of deciding this revision and shall not be relied upon by the parties or the 09th Additional District Judge who will decide the Summary Suit on its own merits.

JUDGE

Tufail