

**ORDER SHEET
IN THE HIGH COURT OF SINDH
CIRCUIT COURT MIRPURKHAS**

First Appeal No.S-04 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection.
2. For hearing of main case.

16.03.2026

Mr. Wishan Das Kolhi and Ms. Nousheen Pahore, advocates for the appellant.

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None present for the respondent despite issuance of notices.

Heard learned counsel for the appellant who has drawn attention to para Nos.3 and 4 of the impugned Judgment and states that instead of recording evidence, the learned trial court dismissed the suit based upon a short verbal hearing conducted by the learned trial court with the plaintiff in person. Perusal of the record confirms such position at para-4 of the impugned Judgment. After debarring the defendant from filing leave application due to absence, the learned trial court ought to have fixed the matter for ex-parte proof and fixed a date and, on such date, ought to have allowed the plaintiff to record examination-in-chief and produce relevant documents, and also to allow the plaintiff to produce witnesses, if any. However, in the present case, without affording opportunity of producing documents and witnesses, the suit was dismissed based on a short verbal hearing by the learned trial court with the plaintiff.

Secondly, the factors regarding use of different pen and handwriting were also observed, which at such stage was uncalled-for, since no statement on oath was made by the plaintiff because no opportunity of producing evidence and documents was given to him. From the above discussion, it appears that the right of fair trial as guaranteed in the Constitution, including the right of producing documents and witnesses, was not allowed to the plaintiff which was his legal right; therefore, the impugned Judgment and decree suffer from such legal infirmities.

In view of the above, the appeal is allowed; and the impugned Judgment and decree dated 09.12.2025 passed by the learned Additional District Judge-II, Tando Adam is set-aside; and the matter is remanded back to the learned trial court for allowing opportunity to the plaintiff to produce documents and witnesses whereafter the matter shall be decided, based on the evidence so produced within 60 days from receipt of this Order and copy of Judgment be filed with the Additional Registrar of this Court.

The instant appeal is disposed of in above terms.

JUDGE

Faisal