

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

Present:
Justice Jawad Akbar Sarwana

R.A.No. 146 of 2025

Applicants : Muhammad Ali s/o Murtaza Ali by caste Rajput through Mr. Shankar Lal Meghwar, Advocate.

Respondent No.1 : Muhammad Shafi Ur Rehman s/o Muhammad Deen Ansari through Mr. Zahid Mustafa Memon, Advocate.

Respondent No.2 : Aslam s/o Asghar Ali by caste Rajput. **Nemo.**

Date of Hearing : 02.12.2025

Date of Order : 24.12.2025.

ORDER

JAWAD AKBAR SARWANA, J.: Applicant, Muhammad Ali/defendant no.1 is aggrieved by the impugned order dated 14.10.2025 passed by the learned VIth Additional District Judge, Hyderabad in Summary Suit No.85 of 2025, granting leave to defend subject to deposit of security of an amount of Rs.27,00,000/- in the shape of Defense Saving Certificate with the Accountant of the District Court and for the remaining amount of Rs.20,00,000/- furnishing solvent surety within 15 days from the date of this order. The applicant has challenged the conditional leave to defend. He contends that the applicant has neither the means nor the resources to meet such a large amount in such a short time. He pleads for the Court's mercy; otherwise, he has not demonstrated any plausible defence that, in the given facts and circumstances, at the stage of leave to defend, such leave should be unconditional.

2. Without prejudice to the above, when the applicant/defendant no.1 filed this revision, Counsel for the applicant/defendant no.1 impleaded only the plaintiff/respondent-Muhammad Shafi ur Rehman as a party in this revision, but not defendant no.2/Aslam Rajput who was/is impleaded in the said summary suit as defendant no.2. Yet the entire thrust of the applicant/defendant no.1's contention before this bench was that there was

allegedly no agreement between him and respondent/plaintiff. Counsel argued that the consideration for the cheque in question was based on an agreement between the respondent/plaintiff and defendant no.2/Aslam Rajput. Incidentally, the Counsel for the applicant/defendant no.1 was also co-counsel of defendant no.2/Aslam Rajput in the summary suit. Therefore, this bench passed orders to implead the defendant no.2 as respondent no.2 and finally heard the matter after issuance of notice to the respondent no.2/defendant no.2-Aslam Rajput.

3. It may not be out of place to mention here that on the first date of hearing of this revision, i.e. on 28.10.2025, as an indulgence, this bench accepted the applicant/defendant no.1's offer to furnish a solvent surety to the extent of 50% of the total amount i.e. Rs.23,50,000/- as opposed to the total sum of Rs.47,00,000/- mentioned in the impugned order. However, even after almost 35 days, the applicant/defendant no.1 has been unable to deposit such surety with the High Court, notwithstanding that, as per Counsel, applicant/defendant no.1 has acknowledged that he is in the business of goldsmith (sonar) doing business in the name of "Rabi Jewellers". Neither fact nor any circumstances have been shown to this bench to waive the requirement of the conditional leave. Given the above, I now turn to the revision.

4. The revision application arises out of an order whereby a leave application was conditionally granted. The respondent no.1 filed the summary suit in response to a post-dated cheque for Rs.47,00,000/- issued by MCB Jail Road Branch, Hyderabad, which was dishonoured. On consideration of the facts and circumstances, which the Vith Additional District Judge, Hyderabad, reasonably explained, he granted conditional leave. Though the applicant's Counsel has argued that the signature on the cheque in question, which bounced, is fake, and the consideration of the cheque was a transaction between the respondent no.1/Muhammad Shaif-ur-Rehman, and respondent no.2/Aslam Rajput, and not with him, however, all such defences, given that he issued the cheque which bounced for the reasons mentioned in the memo as "insufficient funds", will have to be scrutinized in evidence and arguments thereafter. I do not see the discretion exercised by the Additional District Judge as either arbitrary or lacking consideration of the facts and circumstances of the case. In the

circumstances, I do not find anything to interfere with the impugned order dated 14.10.2025, and consequently, this revision application is dismissed.

5. It is clarified that none of the observations made by me herein shall be relied upon by the parties or the Vith Additional District Judge, Hyderabad

6. The revision stands dismissed in the above terms.

JUDGE

Tufail