

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Arshad Hussain Khan

Mr. Justice Amjad Ali Sahito

First Appeal No.27 of 2026

Appellants : M/s. Z.R. Corporation & others
through Mr. Salman Javed Mirza,
Advocate

Respondent : M/s. Bank Alfalah Limited
through Mr. Suleman Huda, Advocate

Date of Hearing : 16.09.2026

Date of Judgment: 21.09.2026

J U D G M E N T

Amjad Ali Sahito, J.- Through the instant First Appeal, the appellants have called in question the order dated 22.11.2025, and the consequential judgment dated 22.12.2025 and decree dated 09.01.2026, passed by the learned Judge, Banking Court No.1, Karachi, in Suit No.404 of 2019, whereby the application for leave to defend, filed by the appellants under Section 10 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 ("the Ordinance"), was dismissed. Consequently, the suit instituted by the respondent/Bank for recovery of an amount of Rs.26,259,713.81 was decreed in favour of the respondent/Bank to the extent of Rs.6,722,178.96, along with costs of the suit and cost of funds as notified by the State Bank of Pakistan, after taking into consideration the payment of Rs.18,170,000/- made by the defendants during the pendency of the suit.

2. Briefly stated, the facts necessary for adjudication of the present appeal are that the respondent/Bank instituted Suit No.404 of 2019 against M/s. Z.R. Corporation, a sole proprietorship concern of late Zubair Abdul Aziz, his legal heirs, including Muhammad Zaid Zubair, seeking recovery of Rs.26,259,713.81, together with future cost of funds and other

consequential reliefs. As set out in the plaint, the defendants had, from time to time, availed finance facilities from the respondent/Bank, including Letter of Credit/SL/C and Finance against Import Merchandise facilities for the import of iron and steel sheets, PMC and tiles. In support of its claim, the Bank relied upon the offer/sanction documents, Master Finance Agreement, Letter of Pledge, alleged Personal Guarantee dated 05.03.2018 and other security documents.

3. The case of the respondent/Bank, as pleaded in the plaint, was that the finance facilities had duly been sanctioned to and availed by the defendant concern and that certain goods had been pledged and placed in a customs bonded warehouse as security against the finance so extended. The plaint makes reference to the pledged stock of polypropylene and high-density polyethylene, as well as storage certificates issued by General Services and addressed to the Bank's Muqaddam, stated to be the person responsible for supervision of the pledged goods. The Bank also referred to subsequent correspondence concerning the pledged stock. According to the Bank, the defendants failed to discharge their repayment obligations and thereby committed default, giving rise to the cause of action for institution of the recovery proceedings.

4. Upon service of summons, the defendants filed an application for leave to defend under Section 10 of the Ordinance, wherein various questions of law and fact were raised. The appellants, inter alia, questioned the maintainability of the suit, their status as customers within the meaning of the Ordinance, the alleged disbursement of the finance facilities, accrual of the cause of action, correctness of the statement of account, compliance with the statutory requirements and the liability, if any, of the legal heirs. More particularly, appellant No.3 categorically denied having executed the alleged Personal Guarantee dated 05.03.2018 and asserted that the same was false and fabricated. The appellants also called into question the alleged net-worth statement and other documents relied upon by the Bank in support of its claim.

5. The respondent/Bank contested the application for leave to defend and maintained that the finance facilities had duly been sanctioned and availed, the relevant security documents had been validly executed and the defendants had committed default in repayment of the outstanding liability. The Bank asserted that the objections raised by the defendants did not disclose any substantial question of law or fact warranting grant of leave to defend and that the application had merely been filed with a view to delaying the recovery proceedings. The Bank further placed reliance upon the statement of account and the documents annexed with the plaint and sought dismissal of the application.

6. The learned Banking Court, after hearing learned counsel for the parties and examining the material available on record, dismissed the application for leave to defend vide order dated 22.11.2025. Thereafter, the learned Banking Court proceeded to adjudicate upon the suit and passed judgment dated 22.12.2025, followed by decree dated 09.01.2026, whereby the amount of Rs.18,170,000/- paid by the defendants during the pendency of the proceedings was taken into consideration and the remaining liability was determined accordingly. Aggrieved by the said order, judgment and decree, the appellants have preferred the instant appeal.

7. Learned counsel for the appellants has principally contended that the learned Banking Court failed to appreciate that the appellants had raised substantial questions of law and fact which could not have been resolved without recording evidence. According to learned counsel, the specific denial of execution of the Personal Guarantee dated 05.03.2018 was a material issue and could not have been brushed aside summarily at the stage of deciding the application for leave to defend. It has been argued that the appellants had specifically disputed the alleged finance facilities as well as the actual disbursement thereof and had also questioned the status of the defendants as “customers” within the meaning of the Ordinance. Learned counsel further submitted that the Bank had failed to establish a lawful and subsisting cause of action against the appellants and

that the statement of account and other documents relied upon by the Bank were themselves specifically disputed. It was further contended that the liability of the legal heirs of late Zubair Abdul Aziz could not have been determined without first examining the nature and extent of the alleged liability and the extent to which the estate of the deceased could lawfully be proceeded against.

8. Learned counsel further questioned the genuineness of the alleged Personal Guarantee and net-worth statement attributed to appellant No.3 and submitted that, once the execution of such material documents had specifically been denied, the controversy could not have been conclusively determined without affording the appellants an opportunity to lead evidence. It was further contended that, during the pendency of the proceedings, the Bank itself had offered settlement of the alleged liability through its letter dated 23.02.2022, whereby an amount of Rs.18.170 million was proposed to be accepted in full and final settlement, along with partial write-off of the principal amount and waiver of markup/cost of funds. According to learned counsel, the said amount was subsequently paid to the Bank.

9. Learned counsel therefore argued that, having accepted the aforesaid amount pursuant to the settlement proposal, the Bank could not lawfully continue to claim the balance amount originally asserted in the recovery suit without first establishing that the settlement had either not been acted upon or that its stipulated terms had not been fulfilled. It was further submitted that the subsequent break-up of the liability as of 15.12.2025, filed by the Bank in Suit No.404 of 2019, itself acknowledges receipt of Rs.18,170,000/- during the pendency of the suit, but nevertheless reflects an amount of Rs.6,722,178.96 as outstanding principal. According to learned counsel, this position gives rise to a serious question as to the legal effect of the alleged settlement and the manner in which the amount paid by the appellants was appropriated.

10. Learned counsel maintained that the appellants had, therefore, disclosed several substantial questions of law and fact

which could only be properly adjudicated upon after affording them an opportunity to defend the suit. It was accordingly contended that the learned Banking Court had erred in declining leave to defend and, thereafter, in decreeing the suit against the appellants. Learned counsel consequently prayed that the impugned order dated 22.11.2025, judgment dated 22.12.2025 and decree dated 09.01.2026 be set aside and the appellants be granted leave to defend the suit. In support of his contentions, learned counsel has relied upon the cases reported as: Agricultural Development Bank of Pakistan through Manager vs. Malik Iftikhar Ahmed (2002 CLD 1280), Messrs Taxila Cotton Mills Ltd and 10 others vs. Allied Bank of Pakistan Ltd. and 4 others (2005 CLD 244, Homepack Freight International through Proprietor and another vs. Saudi Pak Leasing Company Ltd. (2016 CLD 82) and The Bank of Punjab vs. Fazal Abbas and another (2020 CLD 977).

11. Conversely, learned counsel appearing for the respondent/Bank has supported the impugned order as well as the consequential judgment and decree and submitted that the documentary material available on record sufficiently establishes the finance facilities availed by the defendant concern, the securities furnished in respect thereof and the default committed in repayment of the outstanding liability. It was contended that the application for leave to defend had rightly been dismissed, as the appellants had failed to disclose any substantial question of law or fact warranting grant of leave and a full-fledged trial.

12. Learned counsel submitted that the appellants' denial of the alleged Personal Guarantee and other documents, by itself, was insufficient to dislodge the documentary record relied upon by the Bank, particularly when the finance and security documents were available on the record. It was further submitted that the objections raised by the appellants with regard to disbursement of the finance facilities, their status as customers, maintainability of the suit, correctness of the statement of account, compliance with the statutory requirements and liability of the legal heirs had already been duly considered by the

learned Banking Court and were rightly found insufficient to constitute substantial questions warranting grant of leave to defend.

13. With regard to the letter dated 23.02.2022 issued by the Bank, learned counsel submitted that the settlement proposal contained therein was subject to specific terms and conditions and could not be construed as an unconditional waiver or extinguishment of the Bank's entire outstanding liability merely on the basis of the expression "Full and Final Settlement". It was argued that the subsequent computation of the outstanding amount had duly taken into account and credited the payment of Rs.18.170 million and correctly reflected the balance liability payable by the defendants. According to learned counsel, the mere existence of correspondence relating to settlement did not, in the absence of proof of complete compliance with all the stipulated terms and conditions, operate to extinguish the Bank's remaining claim.

14. Learned counsel further submitted that the break-up of the outstanding liability as of 15.12.2025 clearly demonstrates that the payment of Rs.18.170 million had duly been credited to the defendants' account and that, thereafter, an amount of Rs.6,722,178.96 was reflected as outstanding principal, in addition to the amounts payable in terms of the decree. It was, therefore, argued that the appellants had failed to point out any misreading or non-reading of the material available on record by the learned Banking Court, or any illegality, irregularity or jurisdictional defect warranting interference by this Court. Learned counsel accordingly prayed for dismissal of the instant appeal and maintenance of the impugned order dated 22.11.2025, along with the consequential judgment dated 22.12.2025 and decree dated 09.01.2026.

15. We have heard the learned counsel for the parties at considerable length and, with their assistance, have carefully examined the material available on record.

16. The controversy before us essentially revolves around the question whether the appellants succeeded in raising any substantial question of law or fact within the meaning of Section 10 of the Ordinance so as to entitle them to leave to defend, and whether the learned Banking Court committed any illegality or material irregularity in declining such leave and thereafter decreeing the suit. The record reflects that appellant No.1, namely M/s. Z.R. Corporation, availed finance facilities from the respondent/Bank against the security of pledged goods, whereas appellants Nos.2 to 4 were impleaded as legal heirs of late Zubair Abdul Aziz, appellant No.2 having additionally been alleged to have stood as guarantor. The respondent/Bank initially claimed an amount of Rs.26,259,713.81/- from the appellants. During the pendency of the proceedings, the parties entered into negotiations for settlement of the outstanding liability, pursuant to which the Bank, through its letter dated 23.02.2022, offered to settle the liability of M/s. Z.R. Corporation for an amount of Rs.18.170 Million. The appellants thereafter paid the said amount to the respondent/Bank. The subsequent break-up furnished by the Bank on 15.12.2025 reflects adjustment of the aforesaid payment against the outstanding liability and shows a remaining principal amount of Rs.6,722,178.96/-. Learned counsel for the appellants, however, principally contended that, in view of the settlement offer and payment of Rs.18,170,000/-, no further amount was recoverable from the appellants and that the learned Banking Court erred in dismissing their application for leave to defend.

17. So far as the contention of learned counsel for the Appellant that, in terms of the letter dated 23.02.2022 issued by the Respondent-Bank, the entire settled amount of Rs.18,170,000/- stood paid and, therefore, no liability remained outstanding against the Appellant is concerned, the same does not find support from the record. A perusal of the said letter shows that, pursuant to the Appellant's request dated 19.11.2021 for full and final settlement of its outstanding liability, the Respondent-Bank agreed to settle the liability at

Rs.18,170,000/-, subject to the stipulated terms and conditions. The Appellant was required to pay the settled amount, either in lump sum or in installments, on or before 31.03.2022, whereupon the Bank was to withdraw the suit.

18. The settlement was thus conditional upon payment of the agreed amount within the prescribed period and cannot be construed as an unconditional discharge of the Appellant's liability. There is nothing available on record to show that the Appellant ever accepted or acknowledged in writing the offer/settlement extended by the Respondent-Bank through its letter dated 23.02.2022. The Appellant, however, subsequently made certain payments which, according to its stance, represented installments paid pursuant to the said settlement. There is likewise no material on record establishing that such payments were specifically made and accepted as installments under the settlement. Be that as it may, even if, for the sake of argument, it is assumed that the subsequent payments were made pursuant to the settlement, the Appellant still failed to comply with its essential condition requiring payment of the entire settled amount on or before 31.03.2022. The record reflects that the last installment of approximately Rs.5,000,000/- was paid only on 23.05.2023, i.e., considerably after the stipulated cut-off date. The payment schedule contemplated by the settlement was, therefore, not adhered to, and the condition upon which the Bank had agreed to withdraw the suit remained unfulfilled. Consequently, the Appellant cannot claim that payments made beyond the stipulated period resulted in full and final discharge of its liability under the letter dated 23.02.2022. In these circumstances, the Respondent-Bank was entitled to proceed with the suit, which was ultimately decreed on the basis of the break-up of the outstanding liability filed by the Bank on 15.12.2025.

19. The payment of Rs.18,170,000/- made by the appellants was admittedly taken into account by the respondent/Bank. The break-up dated 15.12.2025 specifically reflects the said payment

and the balance liability remaining thereafter. Thus, the material available on record does not substantiate the contention that the Bank ignored or failed to account for the amount paid by the appellants.

20. The mere fact that the Bank's letter dated 23.02.2022 contemplated settlement of the liability for Rs.18.170 million does not, by itself, establish that the Bank was thereby precluded from recovering the amount subsequently reflected in the break-up. The proposed settlement was subject to the terms and conditions stipulated therein. No material has been placed before us which conclusively establishes that the Bank had unconditionally accepted the aforesaid payment in complete discharge of every component of the liability, irrespective of fulfilment of the stipulated conditions, or that the settlement was acted upon in all respects so as to render the remaining contractual liability legally nonexistent. On the contrary, the subsequent break-up furnished by the Bank demonstrates the manner in which the payment was appropriated and the balance liability was calculated.

21. We are equally unable to accept the submission that the existence of the settlement correspondence rendered the entire recovery proceedings non-maintainable. A settlement proposal made during the pendency of litigation does not, by itself, amount to an admission that no liability existed prior thereto, nor does every such proposal automatically operate as a novation or discharge unless the terms thereof, coupled with acceptance and subsequent conduct of the parties, establish such legal consequence. In the present case, the Bank's letter itself prescribed conditions governing the proposed settlement and contemplated consequential steps upon fulfilment thereof. The appellants have not placed before us sufficient material demonstrating that the conditions governing the settlement were fulfilled in such a manner as to conclusively extinguish the Bank's remaining claim.

22. Turning to the application for leave to defend, it is observed that the mere raising of a number of objections does not, in itself, entitle a defendant to leave to defend. The question to be determined is whether the defence, when examined in the light of the plaint and the documents relied upon by the financial institution, discloses a substantial question of law or fact requiring determination through evidence. The learned Banking Court considered the objections raised by the defendants and found that the same did not furnish sufficient basis for grant of leave. Upon examination of the record, we do not find that such conclusion suffers from any jurisdictional defect, misreading or non-reading of the material available before the learned Banking Court.

23. As regards the other objections raised by the appellants, they have disputed the alleged Personal Guarantee, the disbursement of finance, their status as customers, the statement of account and the liability of the legal heirs. We have considered the said objections. However, the documents forming part of the record, including the sanction/finance documents, Master Finance Agreement, Letter of Pledge, statement of account and other material relied upon by the Bank, were found sufficient by the learned Banking Court to conclude that the appellants had failed to raise any substantial question warranting grant of leave to defend. Mere denial of execution of a document, without supporting material sufficient at the leave stage to displace the documentary record relied upon by the financial institution, does not necessarily require leave to defend to be granted as a matter of course.

24. The contention concerning the legal heirs of late Zubair Abdul Aziz has also been considered. The Bank's claim arises out of the finance facilities allegedly availed by the sole proprietorship concern of the deceased, and the extent to which such liability may legally be enforced against the assets and property left by the deceased and inherited by his legal heirs is governed by the applicable law. The death of the original proprietor, by itself, does not extinguish a legally established

liability of the proprietary concern. The learned Banking Court, having considered the pleadings and material available before it, proceeded with the recovery claim. We find no sufficient ground in the present appeal to hold that the proceedings were rendered void on this account.

25. Likewise, the objections relating to Section 9(3) and other statutory requirements of the Ordinance were specifically raised before the learned Banking Court. The respondent/Bank maintained that the plaint had been instituted through its duly authorized officers and that the requisite statutory requirements had been complied with. The learned Banking Court considered the objection and did not find any defect sufficient to non-suit the Bank. Upon examination of the available record, we do not find any material illegality in such conclusion warranting interference in appellate jurisdiction.

26. The appellants have further alleged fabrication of the Personal Guarantee and the net-worth statement. These assertions were emphatically denied by the Bank, which maintained that the guarantee and other security documents had been duly executed in connection with the finance facilities. Although the appellants have levelled serious allegations in this regard, the material presently available before us does not establish, at this stage, that the learned Banking Court was bound to disregard the documentary record relied upon by the Bank and grant leave merely on the basis of such denial. The learned Court was required to determine whether a substantial question of law or fact had been raised and, upon consideration of the material available before it, answered the said question against the appellants.

27. It is settled that the jurisdiction exercised by the Banking Court at the stage of an application for leave to defend is not synonymous with that exercised in a full-fledged trial. Nevertheless, the Court is required to examine whether the defence disclosed by the defendant raises a substantial question of law or fact requiring adjudication. In the present case, the

learned Banking Court considered the respective submissions of the parties as well as the available record and concluded that the objections raised by the appellants did not justify grant of leave. The appellants have failed to demonstrate that such conclusion was founded upon misreading of any material document, disregard of an admitted fact, or exercise of jurisdiction not vested in the learned Banking Court.

28. In view of the foregoing discussion, we are of the considered view that the appellants have failed to point out any illegality, material irregularity, misreading or non-reading of evidence in the impugned order dated 22.11.2025 warranting interference by this Court. The learned Banking Court was justified in declining leave to defend when, upon consideration of the material placed before it, it found that no substantial question of law or fact had been raised sufficient to warrant a trial. The subsequent judgment dated 22.12.2025 and decree dated 09.01.2026 were consequential to the refusal of leave to defend and were passed on the basis of the claim and material available before the learned Court.

29. We may clarify that the observations made herein with regard to the settlement letter dated 23.02.2022 and the break-up dated 15.12.2025 are confined to the examination of the grounds urged in the present appeal and shall not be construed as granting any additional relief to either party beyond the decree under challenge. The payment of Rs.18.170 million has already been reflected in the computation, and the appellants have failed to establish before us that the terms and conditions of the settlement were fulfilled in a manner which legally extinguished the remaining liability determined by the learned Banking Court.

30. The case-law relied upon by learned counsel for the appellants is distinguishable on facts and in the circumstances of the present case and, therefore, does not advance the appellants' case or render the impugned order, judgment and decree vulnerable to appellate interference.

31. For the foregoing reasons, we find no merit in the instant appeal. The appellants have failed to demonstrate any error of law or fact on the part of the learned Banking Court warranting interference by this Court. Accordingly, the instant First Appeal is **dismissed**. The impugned order dated 22.11.2025, whereby the application filed by the appellants for leave to defend was dismissed, is **maintained**. Consequently, the judgment dated 22.12.2025 and decree dated 09.01.2026 passed by the learned Judge, Banking Court No.I, Karachi, in Suit No.404 of 2019, are also **maintained**. There shall be no order as to costs.

JUDGE

JUDGE

KAMRAN/PS