

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

Ist Appeal No.43 of 2026

Appellant : Wajiullah Soomro son of Saifullah Soomro
through Mr. Dev Parkash, Advocate.

Respondent : Arbab Sarang Soomro son of Hussain
Ahmed, through Mr. Tanveer Ahmed
Daudani, Advocate.

Date of hearing : 23.09.2026.

Date of order : 23.09.2026.

O R D E R

Jawad Akbar Sarwana, J. This first appeal filed by Wajiullah son of Saifullah Soomro, appellant/defendant, has a long and checkered history which goes back to September, 2024 when the cheques issued by the appellant/defendant were allegedly dishonoured and the respondent/plaintiff, Arbab Sarang son of Saifullah Soomro, filed Summary Suit No.01 of 2025. While the Additional District Judge-I, Hyderabad, has passed judgment dated 29.04.2026 in Summary Suit No.01 of 2025, it is the contention of the counsel for the appellant/defendant that the appellant/defendant, Wajiullah Soomro, was denied the right of evidence and hearing of final arguments before passing of judgment and decree. Counsel in support of his contentions has placed on record some diary sheets. The relevant diary sheets dated 28.04.2026 & 29.04.2026 are reproduced as hereunder:-

23.04.2026

Plaintiff Arbab Sarang Soomro is present along with his learned counsel Mr. Adeeb Hyder Buriro. Defendant Wajiullah Soomro and his counsel Mr. Razaque Raheem Shaikh are called absent. The evidence of plaintiff Arbab Sarang Soomro is recorded at Ex.1, who produced documents as mentioned in his evidence at Ex.1/A to 1/J respectively, his cross-examination is nil. The learned counsel for plaintiff submitted side close statement vide Ex.2. Put off to 28.04.2026 for arguments.

Sd-

Additional District Judge-1 Jamshoro

28-04-2026

Plaintiff Arbab Sarang Soomro is present along with his learned counsel Mr. Adeeb Hyder Buriro. Defendant Wajiullah Soomro and his counsel Mr. Razzaque Raheem Shaikh are called absent. Put off to 29.04.2026 for arguments.

Sd-

Additional District Judge-1 Jamshoro

29-04-2026

Plaintiff Arbab Sarang Soomro is present along with his learned counsel Mr. Adeeb Hyder Buriro. Defendant Wajiullah Soomro and his counsel Mr. Razzaque Raheem Shaikh are called absent. Arguments heard. Judgment passed and announced in open court. Summary Suit is decreed. Let the decree be made accordingly.

Sd-

Additional District Judge-1 Jamshoro

2. Upon perusal of the diary sheets, it appears that the learned Trial Court proceeded to pass the judgment and decree against the appellant/defendant, Wajiullah Soomro, without affording him a proper opportunity of recording evidence and being heard. After the conditional leave to defend had been granted and surety furnished, the case was being listed for examination of plaintiff as of 23.04.2026. However, on the same date when appellant/defendant was not in attendance, the

cross-examination was marked as nil and plaintiff's side closed. In the circumstances, the impugned judgment and decree has been rendered without due observance of the statutory procedural safeguards. After closing the plaintiff's side for evidence the trial Court had to list the case for appellant/defendant's evidence which it did not. This has caused substantial prejudice to the appellant/defendant's right of hearing at the trial stage. Such deprivation of right goes to the root of the proceedings and materially affects the legality and sustainability of the impugned judgment and decree.

3. Given the above, the judgment and decree dated 29.04.2026 are set aside and the appellant/defendant is directed to appear before the Additional District Judge-I, Jamshoro, who will re-hear the matter and articulate his reasons as desired, including, but not limited to, giving the appellant/defendant the right of leading evidence. In case of any adjournments, the concerned District Court is at liberty to impose costs of upto Rs.10,000/- per hearing, to be contributed to the Dispensary, and to pass any orders for fair and efficient disposal of the summary suit.

4. Office is directed to return the R&Ps along with certified copy of this order before the end of the week. The first appeal stands **allowed** in the above terms.

JUDGE

