

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

Ist Appeal No.73 of 2026

Appellant : Mohammad Imtiaz son of Rehmatullah
Shaikh, through Mrs. Razia Ali Zaman
Patoli, Advocate.

Respondent : Mohammad Sohail son of Riazuddin
Shaikh, through Mr. Ahmed Murtaza A.
Arab, 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 Mohammad Imtiaz son of Rehmatullah Shaikh, appellant/defendant, has a long and checkered history which goes back to November, 2022 when a cheque issued by the appellant/defendant was allegedly dishonoured and the respondent/plaintiff, Mohammad Sohail, filed Summary Suit No.42 of 2023 before the (“trial court”). The counsel for the appellant/defendant argued that when the trial Court/VIIth Additional District Judge, Hyderabad, passed judgment dated 05.08.2026 in Summary Suit No.42 of 2023, the appellant/defendant was denied the right of hearing of final arguments before passing of such judgment and decree in a slipshod manner, contrary to the rules, procedure and conduct of summary trial. Counsel placed reliance on two diary sheets available on pages 265 & 267 of this court file, which record two

different diaries for the same date, which are reproduced as hereunder:-

Alleged First Diary

Case No:Summary Suit 42/2023, Muhammad Sohail S/o Riazuddin Shaikh V/S Muhammad Imtiaz S/o Rehmatullah Shaikh		
03-Aug-2026	Summary Suit called. Plaintiff is present, his counsel is present, Defendant is present, his advocate is present. Matter is fixed for order on application u/o XVIII rule 17 r/w section 151 CPC and order on application under article 84 of Qanoon-e-Shahadat Order announced in open Court.. The instant applications are dismissed. Matter is adjourned. Put up to 05.08.2026, for final arguments.	05-Aug-26
Sd/- Sign. of CMO/COC		

Alleged Substituted Diary

Case No: Summary Suit 42/2023, Muhammad Sohail S/o Riazuddin Shaikh V/S Muhammad Imtiaz S/o Rehmatullah Shaikh		
03-Aug-2026.	Summary Suit called. Plaintiff is present, his counsel is present, Defendant is present, his advocate is present. Matter is fixed for order on application u/o XVIII rule 17 r/w section 151 CPC and order on application under article 84 of Qanoon-e-Shahadat Order announced in open Court. <u>The instant applications are dismissed. Previous diaries shows arguments already heard from both sides in main case.</u> Matter is adjourned. Put up to 05.08.2026, for Judgment.	05-Aug-26
Sd/- Sign. of CMO/COC		

3. On comparison of the two diary sheets of the same date it is clear that they are different particularly the observation viz. “The instant applications are dismissed. Previous diaries show arguments already heard from both sides in the main case.”.

Counsel argues that the said diary was generated to cover the events of 05.08.2026 as counsel of the appellant/defendant was actually absent as per documents available, counsel was attending hearing before Supreme Court on 03.08.2026. Therefore, the second substituted diary was allegedly created as a cover for the previous diary, which shows arguments already heard from both sides in main case, to enable the trial Court to pass the impugned judgment dated 05.08.2026.

4. I have compared the two diary sheets and they are differing. Counsel for the respondent/plaintiff has failed to make out the case why the two diaries of the same date in the same summary suit were/are dissimilar. In the circumstances, the judgment and decree dated 05.08.2026 are set aside and the appellant / defendant is directed to appear before the nominated Additional District Judge for re-hearing of final arguments before such alternate/appropriate Additional District Judge. Presumably, the Court of VIIth Additional District Judge, Hyderabad, is presently lying vacant. Further, re-hearing before the same Additional District Judge of the impugned judgment dated 05.08.2026 may not be proper in the facts and circumstances of the case. Therefore, the District Judge, Hyderabad will nominate the concerned Additional District Judge, who will be assigned to re-hear the summary suit after giving opportunity to the parties to conclude final arguments and articulate reasons afresh. Counsel have proposed that in case any unreasonable adjournments are sought by either party, such adjournments will

be subject to deposit of cost of Rs.15,000/- per hearing to be deposited to the Dispensary.

5. Office is directed to return the R&Ps along with certified copy of this order at the earliest. The first appeal stands **allowed** in the above terms.

JUDGE

Shahid