

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Arshad Hussain Khan
Mr. Justice Amjad Ali Sahito

First Appeal No.160 of 2025

Appellant : Ahsan Ahmed S/o Ahmed Hussain
through Mr. Muhammad Riaz, Advocate

Respondent : Jawwad Ahmed S/o Abdul Salam Khan
Nemo.

Date of Hearing : 01.10.2026

Date of Order : 01.10.2026

J U D G M E N T

Amjad Ali Sahito, J.- Through this appeal under Section 96, C.P.C., the appellant has called into question the judgment dated 04.11.2025 and decree dated 04.12.2025 passed by the learned Additional District & Sessions Judge-III, Karachi Central in Summary Suit No.10 of 2025, whereby the suit instituted by the respondent for recovery of Rs.20,60,000/- was decreed in his favour.

2. Briefly stated, the facts emerging from the plaint are that the respondent sold a car bearing Registration No. BLT-562 to the appellant for a total consideration of Rs.30,00,000/-. Out of the agreed sale consideration, the appellant paid Rs.20,60,000/-, while the balance was to be paid at the time of transfer of the vehicle. According to the respondent, physical possession of the vehicle along with its running papers was delivered to the appellant, whereas the original file of the vehicle remained with the respondent. Subsequently, when the respondent demanded the original documents, the appellant allegedly informed him that the same were not available and, in lieu thereof, offered the file of a flat situated at Block-B, Memon Arcade, Gulshan-e-Iqbal, Karachi, stated to be valued at Rs.35,00,000/-. The respondent

claims that, relying upon such representation and after receiving the flat file, he handed over the vehicle to the appellant.

3. It was further averred that, despite repeated requests, the appellant failed to obtain or deliver physical possession of the said flat. The respondent consequently demanded return of the amount payable to him, whereupon the appellant issued three post-dated cheques towards the alleged outstanding liability. Upon presentation, all three cheques were dishonoured for insufficiency of funds in the appellant's account. The respondent, therefore, instituted the summary suit seeking recovery of Rs.20,60,000/-.

4. The record reveals that, vide order dated 18.09.2025, the learned trial Court granted the appellant conditional leave to defend, subject to furnishing a PR bond in the sum of Rs.20,00,000/- on or before the next date of hearing. Despite repeated opportunities, the appellant failed to furnish the requisite PR bond. Consequently, the learned trial Court rejected the application for leave to defend and decreed the suit for Rs.20,60,000/-. Aggrieved thereof, the appellant has preferred the present appeal.

5. Learned counsel for the appellant assailed the impugned judgment and decree principally on the ground that the learned trial Court failed to properly appreciate the facts and circumstances of the case and that the respondent had not produced sufficient evidence in support of his claim. It was contended that, although the transaction relating to the vehicle was not disputed, the appellant had specifically controverted the respondent's version concerning the vehicle file and the liability allegedly arising therefrom. Learned counsel further submitted that the cheques relied upon by the respondent were not issued against the liability in the manner alleged and that the appellant had raised a substantial defence which warranted adjudication on merits. On these grounds, setting aside of the impugned judgment and decree has been sought.

6. The record further shows that, after institution of the present appeal, the office raised an objection regarding non-

payment of court fee amounting to Rs.15,000/-. The matter came before the Court on 26.02.2026, when one week's time was granted to the appellant for removal of the objection by affixing the requisite court fee, with the express observation that failure to comply within the stipulated period would entail adverse consequences. The matter was thereafter adjourned. On 18.05.2026, at the request made on behalf of learned counsel for the appellant, who is reported to be unwell, the matter was adjourned; consequently, notice was not issued to the respondent. Since the controversy involved is narrow and principally concerns the appellant's failure to comply with the condition imposed by the learned trial Court while granting leave to defend, we deem it appropriate to proceed with the appeal on the basis of the material available on record and after hearing learned counsel for the appellant.

7. We have heard learned counsel for the appellant and carefully examined the material available on record.

8. The question requiring determination is whether, in the circumstances of the case, the learned trial Court was justified in rejecting the appellant's application for leave to defend and consequently decreeing the summary suit upon his failure to comply with the condition of furnishing the PR bond imposed while granting conditional leave, and whether the grounds urged in the present appeal disclose any basis for interference with the impugned judgment and decree.

9. The object underlying Order XXXVII, C.P.C. is to provide an expeditious and efficacious remedy in respect of specified claims, particularly those arising from commercial transactions and negotiable instruments, and to prevent such claims from being subjected to unnecessary protraction. Proceedings under the said Order are summary in nature, and the defendant has no absolute or vested right to contest the suit without obtaining leave of the Court. The right to defend is subject to such leave being granted in accordance with the requirements of Order XXXVII, C.P.C.

10. In the present case, the learned trial Court, in exercise of its discretion, granted the appellant conditional leave to defend subject to furnishing a PR bond in the sum of Rs.20,00,000/-. The condition so imposed formed an integral part of the order granting leave and, therefore, was required to be complied with within the stipulated time.

11. The record establishes that, despite being afforded repeated opportunities, including three consecutive dates of hearing, the appellant failed to furnish the requisite PR bond. Nothing has been brought on record to demonstrate that he sought modification, extension or waiver of the condition so imposed. Consequently, the conditional leave could not enure to the appellant's benefit in the absence of compliance with the condition upon which it had been granted. In such circumstances, the learned trial Court was justified in giving effect to the consequences of non-compliance and proceeding in accordance with the procedure prescribed under Order XXXVII, C.P.C.

12. The grounds urged in the present appeal substantially concern the merits of the underlying transaction and the appellant's version thereof. However, these grounds do not overcome the fundamental fact that the appellant failed to comply with the condition subject to which leave to defend had been granted. A mere assertion of a defence on merits cannot, by itself, revive the right to defend after the defendant has failed to fulfil the condition lawfully imposed by the Court while granting such leave. No illegality, material irregularity or jurisdictional defect has been identified in the impugned judgment and decree so as to warrant interference by this Court.

13. We are, therefore, satisfied that the learned trial Court correctly applied the consequences flowing from the appellant's failure to comply with the condition attached to the leave to defend. The impugned judgment and decree have been passed in accordance with the procedure governing summary suits and disclose no error warranting appellate interference.

14. For the foregoing reasons, we find no merit in the present appeal, which is accordingly **dismissed**, along with the listed application(s). The judgment dated 04.11.2025 and decree dated 04.12.2025 passed by the learned Additional District & Sessions Judge-III, Karachi Central in Summary Suit No.10 of 2025 are hereby **maintained**.

JUDGE

JUDGE

KAMRAN/PS