HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

1st Appeal No.70 of 2025

[Muhammad Umar Shaikh vs. Syed Qudrat Ali Shah and another]

Appellant	:	Muhammad Umar Shaikh **Through Mr. Shakeel Ahmed Zai advocate**
Respondent	:	Syed Qudrat Ali Shah **None present**
Date of hearing:		29.09.2026
Date of decision:		29.09.2026

O R D E R

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JAWAD AKBAR SARWANA J:- Muhammad Umar Shaikh S/o Muhammad Tahir Shaikh – appellant/defendant is aggrieved by the judgment dated 30.08.2025 passed by the Vth Additional District Judge, Hyderabad, in Summary Suit No.74 of 2025 filed by the respondent/plaintiff Syed Qudrat Ali Shah S/o Syed Rustam Ali Shah.

2. Counsel contends that the trial Court proceeded to pass the impugned judgment without even recording evidence, and without giving the appellant/defendant an opportunity to cross-examine the respondent/plaintiff. In such circumstances, he argues that the impugned judgment and decree is bad in law and liable to be set aside.

3. Heard the learned counsel for the appellant.

4. I have perused the record, which indicates that leave to defend application was granted by the trial Court on 30.07.2025 on the condition of deposit of surety in the sum of Rs.16,00,000/- in the shape of Defence Saving Certificate with the Accountant of District Court within 15 days from the date of said Order. The appellant/defendant did not comply with the leave-granting order and challenged it before this (High) Court in Revision Application No.104 of 2025, which was dismissed vide Order dated 29.08.2025. During this period, the High Court did not grant any stay of proceedings. Consequently, based on the bounced cheque forming the basis of the summary suit, the trial Court passed the impugned judgment against the appellant/defendant.

5. It is now a trite princple of law, which has been enunciated by our Courts, including High Court of Sindh at Circuit Court Hyderabad in several judgments/orders passed this year (2026), relying on the judgment of *Pestonji Shapurji Narelwalla vs. Jamshedji Nowroji Gamadia* [**AIR**

1926 Bombay 250] and the Supreme Court of Pakistan in the decision reported as *Umer Khan vs. Haji Musa Jan* [**2009 SCMR 1101**], that once the Court has granted leave to defend to the defendant to file the written statement, no further rights are created in favour of the defendant in the event that the defendant does not comply with the conditions of the leave-granting order.

6. In view of the above, applying the principle laid down in the aforesaid reported judgments, I do not find any irregularity and/or infirmity in the impugned judgment dated 30.08.2025 in Summary Suit No.74 of 2025 and as such this first appeal is misconceived and the same stands dismissed accordingly.

JUDGE

Sajjad Ali Jessar