IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

R.A No.86 of 2026

R.A No.119 of 2026

Applicant	:	Faisal Malik son of Muhammad Zahoor through Mr. Naseem Khan Jamali Advocate.
Respondent	:	Muhammad Zaman son of Liaquat Ali Khan, through Mr. Faisal Ali Raza Bhatti, Advocate.
Date of hearing	:	23.09.2026.
Date of order	:	23.09.2026.

O R D E R

Jawad Akbar Sarwana, J. Faisal Malik son of Muhammad Zahoor, applicant/defendant in RA No.86/2026, is aggrieved by the order dated 26.01.2026 passed by the 7th Additional District Judge, Hyderabad, in Summary Suit No.226 of 2025 filed by Muhammad Zaman son of Liaquat Ali Khan, respondent/plaintiff allowing the applicant/defendant's leave to defend application subject to furnishing solvent surety in the sum of Rs.700,000. Whereas in RA No.119/2026, the applicant/defendant has preferred Civil Revision Application No.119 of 2026 against the judgment dated 14.05.2026 passed by the same Court decreeing the summary suit in favor of the respondent/plaintiff to the extent of the amount of RS.700,000/-. The said revision was filed within the limitation period prescribed for appeals arising from summary suits and, for all purposes, is in the nature of a first appeal; it is decided herein in that context, notwithstanding Counsel concedes this point.

2. Counsel for the appellant/defendant has contended that the appellant/defendant had issued a cheque in the sum of Rs.476,000/- and in the circumstances the 7th Additional District Judge, Hyderabad, had no grounds to direct the appellant/defendant to furnish surety in the sum of

Rs.700,000/-. During the course of arguments, learned Counsel for the respondent/plaintiff conceded that the cheque was indeed for Rs.476,000/- only, which cheque had bounced, and this fact is also supported by the memo of dishonourment. Apart from the above submissions, counsel for the appellant/defendant has not pressed any other ground pleaded in the memo of the revision except claiming a right of hearing that was denied to him by subjecting the leave to defend to the submission of a solvent surety, which was not in the amount of the bounced cheque but a higher amount sans any reasons. Counsel further argued that as the respondent/plaintiff had conceded this point, i.e. the actual amount of the dishonoured cheque was Rs.476,000, the applicant/defendant had been denied the right of trial in the summary suit.

3. It is a trite proposition 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 declined the defendant leave to defend application, 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, which includes the right of hearing. The only recourse left to the defendant, notwithstanding the facts and circumstances of each case, such as, but not limited to, the service of summons in the summary suit being defective, etc. is to agitate hearing at the appropriate stage within the contours of Order 37 Rule 4 CPC, which may also include all available challenges under Order 21 CPC.

4. In the case in hand, the appellant/plaintiff took no action to demonstrate his bona fides, too, concerning furnishing surety

in the admitted amount. He could have submitted a solvent surety in the sum of Rs.476,000 and taken action to reduce the surety amount before the trial Court. He could have challenged the leave-granting order by promptly depositing such surety (Rs.476,000) in revision, etc., to show his bona fides. Instead, he did nothing and did not submit any solvent surety at all. He simply let the time run out and lost his right of defence in the summary suit notwithstanding the provisions of Order 37 Rule 4 CPC.

5. Given the above, the Civil Revision Application No.86 of 2026, having become infructuous, stands **dismissed**; whereas, the Civil Revision Application No.119 of 2026 is **allowed** with the impugned judgment and decree passed by the trial Court is modified in the above terms, i.e. the summary suit of the respondent/plaintiff is decreed in favor of the respondent/plaintiff to the extent of Rupees Four Lacs Seventy-Six Thousand only (Rs.476,000/-). The office is directed to prepare the appellate decree, accordingly

JUDGE

Shahid