HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Present: Justice Jawad Akbar Sarwana

1st Appeal No.51 of 2023

Appellants	:	Syed Noor Kazim s/o Syed Ahmed Ali Shah (Deceased) through LRs: - a) Syed Ghayasuddin s/o Syed Noor Kazim. Nemo. b) Syed Moinuddin s/o Syed Noor Kazim Through M/s Jaleel Ahmed Memon, Ghulam Mustafa Burdi, Syed Jan Muhammad Bukhari and Rakesh Kumar Lohana, Advocates, c) Syed Mohiuddin s/o Syed Noor Kazim. Nemo. d) Syed Salahuddin s/o Syed Noor Kazim. Nemo. e) Sabiha d/o Syed Noor Kazim. Nemo. f) Shagufta d/o Syed Noor Kazim (deceased) through LRs: - a) Ammar s/o Shoaib Siddiqui. Nemo. b) Basil s/o Shoaib Siddiqui. Nemo. c) Hira d/o Shoaib Siddiqui (Minor). Nemo
Respondent	:	Muhammad Saleem s/o Abdullah, Arain In person
Date of hearing	:	**04.11.2025, 26.11.2025, 12.12.2025, 18.12.2025, 23.12.2025, 26.12.2025 29.12.2025**
Date of Short Order	:	02.01.2026
Date of Reasons	:	24.10.2026

O R D E R

JAWAD AKBAR SARWANA, J.: Appellant/defendant-Syed Noor Kazim s/o Syed Ahmed Ali Shah has challenged the judgment and decree dated 10.08.2023 and 22.02.2022, respectively, passed by the learned IInd Additional District Judge, Hyderabad (the "trial Court") in Summary Suit No.21/2014, filed by respondent/plaintiff-Muhammad Saleem s/o Abdullah Arain.

2. Before proceeding to examine the merits of the appeal, it is necessary to recount the efforts made by this Court to secure the appearance and representation of the appellant and, following his demise, his legal heirs, so as to afford them a fair and adequate

opportunity of hearing. The original appellant, Syed Noor Kazim, passed away on 04.07.2024, as confirmed by the Death Registration Certificate issued by the Government of Sindh. His demise came to the notice of this Court on 10.03.2025, when learned counsel undertook to move an appropriate application to bring his legal heirs on record and file an amended title. However, despite repeated opportunities, the requisite formalities remained incomplete. On 04.11.2025, an adjournment was sought on account of the illness of learned counsel, Mr. Jaleel Ahmed Memon, which was allowed, and the matter was adjourned to 26.11.2025. On that date, no one appeared on behalf of the appellant, nor did the Court receive any intimation. Instead of proceeding in their absence, this Court directed that notices be issued to all advocates whose names appeared in the Vakalatnama through electronic modes, including WhatsApp, text messages, and email, and adjourned the matter to 28.11.2025. On that date, learned counsel Syed Jan Muhammad Bukhari appeared and filed a statement confirming the original appellant's death, while renewing the undertaking to bring his legal heirs on record and file the amended title. The Court also directed that notices be issued to the legal heirs at the addresses mentioned in the appeal. On 12.12.2025, counsel once again sought further time to file the amended title. The Court observed that repeated adjournments had been sought since the disclosure of the appellant's demise and, to ensure that his legal heirs were afforded every reasonable opportunity to participate in the proceedings, directed the issuance of repeat Court-motion notices through the Bailiff, registered post, and private courier. The matter was then adjourned to 18.12.2025 for final arguments. On that date, learned counsel reported that an amended title had been filed, but clarified that he represented only legal heir No. 1(b), namely Syed Moinuddin. Accordingly, this Court directed that notices be issued to the remaining legal heirs at the addresses furnished in the amended title, through all modes except publication, and adjourned the matter to 23.12.2025. On that date, the legal heirs sought another adjournment. The Court recorded that the matter had been listed before the Bench on six occasions and that repeated adjournments had impeded its progress. Accordingly, further Court-motion notices were directed to legal heirs Nos. 1(a), 1(c), 1(d), 1(e) and 1(f) at their respective addresses in Pakistan, with specific directions to the office to ensure compliance. As a last and final opportunity, the matter was adjourned to 26.12.2025, when Mr. Jaleel Ahmed Memon,

Advocate, appeared on behalf of the appellant's side and the matter was partly heard. At his request, the Court granted further time to place on record the evidence recorded in the underlying summary suit and directed the office to requisition its record and proceedings. Finally, on 29.12.2025, M/s Jaleel Ahmed Memon, Ghulam Mustafa Burdi, Syed Jan Muhammad Bukhari and Imtiaz Ahmed Soomro, Advocates, were recorded as appearing for the legal heirs of the deceased appellant. The matter was heard and reserved for judgment. The foregoing chronology demonstrates that this Court made sustained efforts to secure the participation of the appellant's legal heirs, accommodated repeated requests for adjournment, directed issuance of notices through several modes, and afforded successive opportunities for representation and hearing before concluding the proceedings. The appeal was thereafter dismissed by short order dated 02.01.2026, for reasons to be recorded.

3. The respondent/plaintiff filed the summary suit claiming recovery of an amount of Rs.10,000,000/- based on two crossed cheques in the sum of Rs.5,000,000/- each, which were dishonoured and duly supported by Memo of Dishonour. Additionally, the respondent/plaintiff claimed compensation, liquidated damages, court fee, etc., and the trial Court dismissed all such claims except the claim based on the two negotiable instruments that bounced.

4. The evidence on behalf of the appellant/defendant was produced by Syed Moinuddin, the son of the appellant/defendant, who has also entered appearance in this first appeal. During evidence, the appellant/plaintiff has not denied the issuance of cheques in favor the respondent/plaintiff. Instead, he suggested in his cross-examination that such cheques were issued on behalf of his son, Syed Moin Kazim, to fulfil the conditions of settlement/faisal made in respect of sale and purchase of one bungalow No.B-37, Block-E, Unit No.06, Latifabad, Hyderabad, but such suggestion had already been denied by the respondent/plaintiff, and the appellant/defendant also did not produce any witness concerning such settlement/faisla. The Bank's Operations Manager also took the witness stand and deposed that the cheques bounced because the bank account was closed. Thus, the claim raised against the appellant/defendant stood proven.

5. The appellant/defendant has failed to demonstrate any jurisdictional defect, material irregularity or illegality warranting interference. Further, reappraisal of the evidence is also of no help to the appellant/defendant, and Counsel has not sighted any evidence that may come to his rescue.

6. Given the above, on 02.01.2026, I dismissed the 1st appeal no.51/2023 vide a short order, and the above are the reasons for the same.

JUDGE

AHSAN K. ABRO