

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

R.A. No.286 of 2017

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For Katcha Peshi.
2. For hearing of C.M.A. 2218/2017

27.03.2018.

Mr. Mazhar Hussain Kalwar, Advocate for the applicant.

Mr. Muhammad Essa Behan, Advocate for respondent

Mr. Ghulam Abbas Sangi, Assistant A.G.

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Counsel for respondent files his objections and counter affidavit to the instant revision, which are taken on record.

This Revision assails order passed in Summary Suit No.01 of 2017, where the applicant was directed to furnish a security in the sum of Rs.6,50,00,000/- (Six Crores Fifty Lacs) through order dated 07.10.2017.

A review of the plaint of the Summary suit, suggests that the rival parties, who are father and son, are into number of litigations i.e. civil as well as criminal and as a part of the dispute, entered into an agreement dated 19.09.2015 where in pursuance thereof, a Cheque bearing No.T 19764584 dated 27.09.2017 in the sum of Rs.6,50,00,000/- (Six Crores Fifty Lacs) favouring the respondent was issued. Since the cheque was bounced with the endorsement "account closed", the respondent filed the Summary Suit for the payment of aforementioned sums. A further review of the order

impugned shows that the defendant was served and that earlier his counsel took time for furnishing security, however, the applicant preferred to file this revision on 27.11.2017.

It is contended by learned counsel for the applicant that the respondent being son of the applicant was in possession of the Cheque Book and falsely prepared the said Cheque, which is dated 27.09.2016 whereas the

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father had already closed the account on 09.08.2016. The counsel even denies veracity of the agreement in question and submits that this is a fake document even the signature thereon does not match that of the applicant. He has also produced a Bank statement in which at no point of time balance exceeded Rs.450,000/- (Four Lac Fifty Thousand). The contention raised by learned counsel for applicant, considering the privacy and sanctity of the relationship between the father and son and son having access to Cheque Book of the father, might have presented the cheque after his father having closed the account, appeal to logic and foulplay cannot be ruled out particularly when parties are in criminal as well as civil litigation against each other will never fail to discredit each other.

In the given circumstances, this revision is allowed, operation of the impugned order is suspended with directions to learned trial Court to consider the evidence presented by the appellant / defendant and decide the case on merits within 03 months.

JUDGE

Asif I. Khan