

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

1st Appeal No.16 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of C.M.A 1016/17
2. For hearing of main case

12.10.2020

Mr. Rao Faisal Ali, Advocate for appellant(s).

Counsel submits that in terms of the pleadings the issues were not framed as there is no discussion about the partnership agreement and the settlement such as Iqarnama.

I have heard the learned counsel for appellant(s). I have also perused the examination-in-chief of one Muhammad Arsalan who is the son of defendant / appellant Sultan son of Ghulam Qadir. The issuance of the cheque is not disputed. The signatures are not disputed. It is only a defence that it was a business transaction and a substantial amount was returned and consequently Iqarnama was executed, which defence was not established / proved. I have inquired from the counsel as to why the cheque was not obtained back while the Iqarnama was executed, counsel had no answer. The two witnesses of Iqarnama are closely associated to the deceased; one being relative and other being a friend. No case of indulgence as such is made out. They could have filed an application at the relevant time when according to them appropriate issues were not framed. Even there is no evidence of the business transaction for which issue was required to be framed in terms of the arguments of the learned counsel. However, court had framed issues according to pleadings. No indulgence as such is made out. The appeal is dismissed along with listed application.

JUDGE