

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

Revision Application No.74 of 2021

Ziauddin Gabol  
Versus  
Nabi Bukhsh & others

Date	Order with signature of Judge
------	-------------------------------

1. For orders on CMA 2249/21
2. For orders on office objection a/w reply as at "A"
3. For orders on CMA 2250/21
4. For hearing of main case
5. For orders on CMA 2251/21

**Dated: 16.04.2021**

Mr. Qamar Raza Khokhar for applicant.

-.-.-

An application for leave to defend was filed by applicant in a summary suit filed for recovery of Rs.14,915,000/-. While considering the leave to defend application, the Court granted the leave to the effect that only 1/3 of the total claim was required to be submitted in terms of surety, which order is impugned in this revision application. Prima facie it appears that a fair discretion was exercised by the trial Court. This is no defence that he (applicant) has no financial means for submitting surety in terms of Order XXXVII CPC. He claimed to set off the amount outstanding, however, it is not confidence inspiring. Had it been the case, he would have obtained the cheques back from the respondent. Be that as it may, I would not like to comment more on it as trial is yet to be commenced but I do not find any substance to interfere with the findings and/or discretion exercised by the trial Court, as stated above. Hence, revision application is dismissed along with listed applications.

At the conclusion of this dictation, learned counsel for applicant has requested that applicant may be given a reasonable time to deposit the surety of 1/3<sup>rd</sup> of the total claim of the suit in terms of the impugned order. To this extent the request is allowed. Applicant may submit surety as required in terms of the impugned order dated 02.04.2021 within 15 days' time during which period no adverse action be taken against him.

**Judge**