

Order Sheet  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

R.A. No.289 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on CMA 3029/2023
2. For orders on office objection No.5
3. For orders on CMA 2685/2023
4. For orders on CMA 2686/2023
5. For hearing of main case

17.11.2023

Mr. Farukh Alam advocate for applicants.

1. Granted.

2to5. The present application assails order dated 18.09.2023 rendered by the 7<sup>th</sup> Additional District Judge Hyderabad in Summary Suit No.53/2023 whereby a leave to defend application has been granted to the applicant; subject to deposit of surety. The entire premise of the applicants' counsel is that the leave ought to have been granted unconditionally and that perhaps the surety amount should be less.

It is settled law that the trial court is competent to grant leave to defend, conditional or otherwise at its discretion. The trial court appears to have exercised its jurisdiction and no infirmity in such regard is manifest. It is trite law<sup>1</sup> that where the fora of subordinate jurisdiction had exercised its discretion in one way and that discretion had been judicially exercised on sound principles the supervisory forum would not interfere with that discretion, unless same was contrary to law or usage having the force of law. It is the considered view of this court that no manifest illegality has been identified in the order impugned and further that no defect has been pointed out in so far as the exercise of jurisdiction is concerned of the subordinate forum.

Notwithstanding the foregoing, learned counsel was unable to cite a single ground based upon which the jurisdiction of this Court could be exercised under section 115 of Code of Civil Procedure. There is no suggestion that the impugned order is either an exercise without jurisdiction or a failure to exercise jurisdiction or an act in exercise of jurisdiction illegally or with any material irregularity.

In view hereof, this revision is found to be misconceived and devoid of merit, hence, hereby dismissed *in limine* along with listed applications.

Judge

Ali Haider

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<sup>1</sup> Per *Faqir Muhammad Khokhar J. in Naheed Nusrat Hashmi vs. Secretary Education (Elementary) Punjab* reported as *PLD 2006 Supreme Court 1124*; *Naseer Ahmed Siddiqui vs. Aftab Alam* reported as *PLD 2013 Supreme Court 323*.