

# IN THE HIGH COURT OF SINDH AT HYDERABAD

1<sup>st</sup> Appeal S.57 of 2021 : Zafar Iqbal Vs. Syed Amir Ali  
For the appellant : Mr. Anis ur Rehman, Advocate  
Date/s of hearing : 24.11.2023.  
Date of announcement : 24.11.2023.

## ORDER

**Agha Faisal, J.** The present appeal assails the judgment dated 02.09.2021 rendered by the VIIIth Additional District Judge Hyderabad in Summary Suit No.70 of 2019. The operative portion is reproduced herein below:

“The perusal of cheques produced by the plaintiff during his examination in chief reveals that out of four cheques two cheques of Rs.15000/- each are given to plaintiff by defendant in which name of plaintiff is mentioned while perusal of remaining two cheques viz.cheque No.10146248 dated 10.05.2019 of Rs.300,000/- and cheque No.10181321 of dated 25.12.2018 of Rs.32000/- reveals that in both cheques in column of pay word ‘self’ is written which means that the same can only be encashed by account holder himself, therefore, I am of the view that plaintiff is entitled to receive only Rs.300,000/- from the defendant regarding the two cheques viz. cheque No.10146230 dated 18.03.2019 of Rs.150000/- and cheque No.10146229 dated 18.03.2019 of Rs.150,000/- while prayer of return of amount of cheque No.10146248 dated 10.05.2019 of Rs.300,000/- and cheque No.10181321 of dated 25.12.2018 of Rs.32000/- is dismissed.

In the light of above discussed case law referred above the Suit of the plaintiff is decreed to the extent of Rs.300,000/-(Rupees Three lac) against defendant with no order as to costs. Let such decree be prepared. The plaintiff is at liberty he can file civil Suit for recovery of amount of cheque No.10146248 dated 10.05.2019 of Rs.300,000/- and cheque No.10181321 of dated 25.12.2018 of Rs.32000/- total Rs.332000/- if he desire.”

Learned counsel does not dispute the narrative stated therein, however, submits that the appellant’s grievance is with respect to certain orders passed on interlocutory applications by the trial court. Upon query, it is unequivocally stated that the said orders were never assailed.

Heard and perused. It is apparent that the impugned judgment has been rendered upon the merits of the matter. In so far as the merits are concerned, the counsel was confronted with the narration / observations of the trial Court as particularized supra, and asked as to whether they were commensurate with the facts; the same could not be denied. Per the deliberated conclusion of the trial court, the issuance of the cheques was admitted as was the fact of dishonor thereof. To such extent it is manifest that nothing further needs to be called for or considered. Learned counsel also remained unable to demonstrate if the fate of any interlocutory application had any determinant influence upon the final adjudication on merit.

While this Court is cognizant of Order XLI Rule 31 CPC, yet at this stage no case has been set forthwith to entertain the present appeal in view of the reasoning stated above. As a consequence hereof this appeal is hereby dismissed *in limine* along with pending applications per Order XLI Rule 11 C.P.C. The office is directed to communicate a copy hereof to the trial court.

Judge