

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
I.A. No.79 of 2019

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Date Order with signature of Judge

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Hearing of Case

For hearing of main case

**30.11.2023.**

Mr. Muhammad Jawaid Tanoli, Advocate for the appellant

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This appeal is arising out of the judgment passed in summary suit No.1 of 2016. The suit was contested after grant of leave, however, despite grant of leave, no evidence was recorded by the appellant. Some opportunities were given after the recording of evidence and cross examination of the respondent being plaintiff in the suit to the appellant but he did not turn up to file affidavit and to be cross-examined. Learned counsel has taken us to the cross examination of the respondent/plaintiff where all the suggestions of the appellant's counsel have been answered in negative. The cheque was bounced as there was insufficient fund. It is claimed by the appellant that this bearer cheque was handed over to some other person but not the respondent. This argument would not gain anything as it was a bearer cheque and could have been encashed by the person holding the instrument, otherwise, it would have been crossed for payee's account only.

Learned counsel lastly submitted that in terms of the pleadings of the plaintiff, the cheque was snatched by the appellant and original perhaps was not produced, even this would not gain anything as the deposition of the respondent/plaintiff provides that those cheques, undertaking and promissory note etc were exhibited and originals were seen and returned. Those documents were exhibited as P/1 to P/4. As against this deposition on oath, the version of the appellant is of no avail. Even the appellant when inquired and asked to produce the cheque, if snatched by him, he gave some evasive answer and refused to present original. Thus nothing was established by the appellant which could enable us to interfere with the judgment of the trial court. Consequently, this appeal merits no consideration and dismissed. R&P be returned back to trial court.

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