

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**First Appeal No.24 of 2019**

Muhammad Nawaz  
Versus  
Saleem M. Gagai

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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**Present:**  
**Mr. Justice Muhammad Shafi Siddiqui**  
**Mr. Justice Omar Sial.**

Hearing case (priority)

1. For hearing of main case.
2. For hearing of CMA No.1418/2019 (stay).

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**Dated 15.01.2024**

Mr. Shafiq Ahmed, Advocate for the appellant.

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A summary suit bearing No.138/2018 was filed in respect of some cheques described in the initial para of the impugned judgment. The notices and summons were issued to the appellant, being defendant in the suit, by the Additional District Judge, however, all in vain; hence it was ordered to be proceeded exparte on 09.01.2019. An application under Order-IX Rule-9 CPC was then filed for recalling of the order dated 09.01.2019, which perhaps was dismissed on 20.02.2019. The said order attained finality, hence when the suit was decreed in terms of the impugned judgment, this appeal was filed.

Appellant has attempted to argue this appeal on the strength of some facts as defence which was not taken before the trial court either in the shape of leave application or otherwise. The only application that was available is an application under Order-IX Rule-9 CPC for recalling of the exparte orders. This could hardly be a defence to be considered in this appeal. Learned counsel in addition to it submits that the four of the cheques were returned because the signatures were not matched. Even this could hardly

be a ground, as the leaves of the cheques, cheque book and the account pertains to appellant, were not disputed. The inscriber may have signed it as he or she deemed fit and proper which defence of signature, in view of above, is not available in this summary suit.

Since no justifiable defence is disclosed either before learned Additional District Judge or this court, this appeal merits no consideration and is accordingly dismissed along with pending application(s).

JUDGE

JUDGE

Ayaz Gul