

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.792/2009

Capt (R) Syed Zubair Ahmed

Versus

Majdee Usmani

**BEFORE:** Mr. Justice Mohammad Shafi Siddiqui

Date of Hearing: 03.2.2015

Plaintiff: Through Mr. Arshad Iqbal Advocate.

Defendant: None present

**J U D G M E N T**

Muhammad Shafi Siddiqui, J.- Learned Counsel for the plaintiff submits that since the plaintiff is unwell he has executed a Power of Attorney in favour of his son namely Syed Saeed Ahmed Shah to appear and file affidavit-in-exparte proof. This suit pertains to recovery of Rs.73,89,583/-. The claim of the plaintiff is based on the fact that the plaintiff and the defendant were in business terms and were dealing in sale of vehicles. Learned Counsel further submits that in pursuance of such business plaintiff has handed over five imported second-hand vehicles mentioned in plaint as well as in paras 2 & 3 of the affidavit-in-exparte filed by the Attorney. Learned Counsel further relied upon the bounced cheques which are produced as Ex-PW-1/2 to PW-1/5 totalling Rs.2,750,000/-. Insofar as the rest of the amount of claim is concerned learned Counsel submits that it is on verbal assurance that the plaintiff has handed over the imported second-hand vehicles to the defendant. Learned Counsel at the very outset submits that though these are imported second-hand vehicles and the invoices and other import documents were in the name of the plaintiff but were not filed either with the plaint or with affidavit-in-exparte proof.

I have perused the affidavit-in-exparte proof as well as the contents of the plaint. Prima facie It appears that the aforesaid cheques were issued by the defendant in favour of the plaintiff amounting to Rs.2,750,000/-. Insofar as the rest of the claim of plaintiff is concerned, I am afraid the plaintiff has neither produced any documents in relation to the vehicles such as invoice, bill of lading and other shipping documents nor has placed any other documents to establish such fact.

In view of the above facts, the plaintiff has only able to establish the amount in respect of the bounced cheques which are filed with the plaint as well as with the affidavit-in-exparte proof. I, therefore, decree the suit to the extent of an amount of Rs.2,750,000/- with interest as provided under the law and notification/circular issued by State Bank of Pakistan. Decree may be drawn accordingly.

JUDGE