

**THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD.**

Present:  
Justice Jawad Akbar Sarwana

**1<sup>st</sup> Appeal No. 66 of 2025**

1. For orders on CMA 2874/2025.
2. For hearing of CMA 2084/2025.
3. For hearing of main case.

Appellant : Bahadur Khan s/o Khan Muhammad through  
Mr. Muhammad Luqman, Advocate.

Respondent : Muhammad Ismail s/o Gul Muhammad  
Memon. **Nemo.**

Date of Hearing : 10.12.2025  
Date of Order : 10.12.2025.

**ORDER**

**JAWAD AKBAR SARWANA, J:** The appellant / defendant No.1 has impugned the judgment dated 30.09.2023 passed by the learned 1<sup>st</sup> Additional District Judge, Hala in Summary Suit No.01/2017. His principal grievance is that he has been condemned unheard and when he moved an application under Section 12(2) CPC for setting aside the order for proceeding against him exparte because service was not effected on him, the said application was also dismissed. He claimed that the respondent / plaintiff impleaded four parties in the Summary Suit No.01/2017 and the residential and business addresses for all four respondents was the same. He submits that the respondents No.2 to 4 were in fact his brothers and father inter-se who had nothing to do with the transaction and were duly served at their residential and office addresses. Further they defended the case and the 1<sup>st</sup>

Additional District Judge in the impugned judgment found that no case for recovery was made out against them. However, he contended that as far as the appellant / defendant No.1 Bahadur Khan was concerned, the summons served by the concerned Court was not affected as (i) Bahadur Khan did not reside at the residential address provided in the title of the Plaint and (ii) nor was he doing business at the office address (second address) identified in the title of the Plaint. He contended that in fact Bahadur Khan was doing business mostly in Punjab and this was so since August 2016 onwards. With regard to his residential address Bahadur Khan submitted that he did not reside with his brothers and in fact his address was in House No.113 P.I.B Colony Karachi. Principally counsel contended that impugned judgment may be set aside, as he did not have proper notice of the Summary Suit and if he had notice he would have defended the case and such opportunity was not provided to him by the trial Court.

2. Heard Counsel. Perused the record.

3. It transpires that when the exparte proceedings were initiated against him by the trial Court the appellant / defendant moved an application u/s 12(2) CPC. I have perused the said application and queried counsel whether he had filed any document which would corroborate his stance that the appellant / defendant No.1 was in fact residing at the alternate address as mentioned in the Section 12(2) CPC application. Counsel replied that such information was available with him and was in fact filed with the application under Section 12(2) CPC but not considered by the trial Court. At this point the bench queried counsel whether there is any cross reference to such documents supporting his statement expressly mentioned in the 12(2) application or filed in this 1<sup>st</sup> appeal, however none could be identified by Counsel. It was expected that when the service was affected at his residential address given in the title of the Plaint, the burden was on appellant / defendant to prove that the address shown for service was incorrect. However, with regard to residential address, the appellant / defendant has not been able to meet satisfy such burden.

4. Turning to the business address provided in the title of the Plaint, the appellant has attached statement of accounts of Allied Bank from 2013 upto June 2016. According to the bank statement the address mentioned in the same is that of business address indicated in the title of the Plaint. Furthermore, the cheque which was dishonoured is dated 18.07.2016 which is merely a month away from the statement of accounts showing the same business address of the appellant / defendant as given in the Plaint in the Summary Suit. Counsel was queried whether he had filed any document with his Section 12(2) application to corroborate his stance that the appellant / defendant No.1 was no longer doing business at the office address given in the Statement of Account of Allied Bank however the counsel could not provide any such evidence nor did he file any letterhead of the business indicating a business address different from one mentioned in the title of the Plaint. In the circumstances on this score as well I am unable to find in favour of appellant's submission that the address mentioned as business address of the appellant / defendant No.1 in the Plaint is incorrect. Finally I have perused the impugned judgment dated 30.09.2023 and after a full hearing, the Summary Suit was decreed only against the appellant / defendant No.1 to the extent of Rupees One Crore only. The bounced cheque was dishonoured because of "insufficient funds" and nothing was brought on record during evidence to negate the case of the respondent/plaintiff against the appellant/defendant. I do not find any defect or irregularity or misreading of evidence in the impugned judgment to make out a case for intervention and / or setting aside of the impugned judgment.

5. Given the above, this 1<sup>st</sup> Appeal having no merits is hereby dismissed alongwith pending applications.

JUDGE