

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

**Present:**  
**Justice Jawad Akbar Sarwana**

**1<sup>st</sup> Appeal No. 07 of 2024**

- 1. For hearing of CMA 737/2024.
- 2. For hearing of main case.

Appellant	:	Muhammad Rafique s/o Ali Sher by caste Bhatti through Mr. Faisal Ali Raza Bhatti, Advocate.
Respondent	:	Memon Motor Pvt Limited through Mr. Farman Ali, Advocate holding brief for Mr. Qurban Ali Baat, Advocate.
Dated of hearing	:	15.12.2025.
Date of Order	:	16.12.2025.

**ORDER**

**JAWAD AKBAR SARWANA, J.** : Muhammad Rafique s/o Ali Sher, the appellant/defendant has preferred this 1<sup>st</sup> appeal against the judgment dated 10.01.2024 and decree dated 15.01.2024 passed in Summary Suit No.40/2020 by the learned 2<sup>nd</sup> Additional District Judge, Hyderabad decreeing the said Summary Suit in the sum of Rs.15,302,700/-. The appellant/defendant claims that nothing was outstanding or due between the appellant/defendant and the respondent/plaintiff. The alleged cheques which were dishonoured were given as surety/guarantee for payment already made by the appellant/defendant through pay orders to the respondent/plaintiff. He argued that these pay orders were handed over to the respondent/plaintiff from time to time who would return the cheques on receipt of the funds through these pay orders. He contended that the respondent/plaintiff dishonestly and in an attempt to recover twice malafidely

presented the said cheques to the bank for collection and got them dishonoured. He claimed that if he had been allowed to defend the summary proceedings, he would have succeeded in proving his defence as raised in this 1<sup>st</sup> appeal. Furthermore, he argued that in the present case exparte proceedings were initiated against him, and therefore, he did not have the opportunity of defence as the impugned judgment was passed without his hearing.

2. Heard Counsel. Perused the record.

3. It appears that the learned 2<sup>nd</sup> Additional District Judge first passed leave granting order dated 14.10.2021 whereafter the appellant/defendant filed Revision No.262/2021 against the said order which was disposed of vide order dated 16.12.2022 passed by the High Court directing the appellant/defendant to submit the surety within 15 days however, the appellant/defendant failed to submit such surety. During the course of arguments, he claimed that he had attempted to submit a surety viz. title of documents of lands located in Punjab but the Court did not accept such surety. There is no evidence on record in support of such submission made by the appellant/defendant. Even otherwise, no case can be made for the same given the order dated 16.04.2022 passed by High Court in Revision No.262/2021 directing the appellant/defendant to submit security to the extent of the claimed amount. It appears that when no security was submitted by the appellant/defendant the Court debarred the appellant/defendant from filing Written Statement vide order dated 09.11.2023. The record reflects, and this is also confirmed by the counsel for appellant/defendant, that the appellant/defendant did not prefer any challenge against the order of initiating exparte proceedings against him by the 2<sup>nd</sup> Additional District Judge, Hyderabad nor he preferred any Revision. Furthermore, the appellant/defendant also did not bother to cross examine the

respondent/plaintiff who deposed in the matter. Hence the impugned Judgment and Decree was announced against him on merits.

4. Given the above facts and circumstances no case is made out for interference in the impugned judgment dated 10.01.2024 and decree dated 15.01.2024 and the same is sustained in this challenge raised in the 1<sup>st</sup> appeal. Even otherwise, there is no illegality or irregularity in the impugned judgment and decree. Therefore, on 15.12.2025 this bench, passed the short order of even date wherein for reasons to be recorded, the 1<sup>st</sup> appeal was dismissed alongwith pending application.

5. The above are now the reasons of said short order.

JUDGE

Tufail