

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

**Civil Revision Application No.37 of 2024
(Hashim Ali Vs. Ali Raza)**

Date	Order with Signature of Judge
------	-------------------------------

Hearing / Priority

1. For order on office objection a/w reply as at A.
2. For hearing of CMA No.2322/2024.
3. For hearing of main case.

22.01.2026

Mr. Rasheed Ashraf Mughal, Advocate for the applicant.

Jawad Akbar Sarwana, J.: None present for the respondent. No intimation is received. The same position existed on 06.11.2025. The applicant/defendant, Hashim Ali, is aggrieved by the order dated 02.02.2024 passed by the learned VIIth Additional District Judge, Malir, Karachi, in the respondent/plaintiff, Ali Raza's Summary Suit No.07 of 2023. He is aggrieved that the said impugned Order was granted subject to the applicant/defendant furnishing equal security as to the amount involved in the suit. He seeks unconditional leave to be granted to him. It transpires that a status quo order was passed in this civil revision on 27.02.2024, and consequently, thereafter, there has been no progress in the summary suit.

2. Counsel submits that once the learned Additional District Judge found that triable issues were made out, the only recourse left was to grant "unconditional" leave to defend. The Court could not burden the defence with the condition of submission of security. Counsel relied on **1973 SCMR 393**.

3. Heard Counsel. I have perused the record and do not find any reasoning or explanation in the impugned Order for granting the leave to defend application. Indeed, neither the defence raised by the applicant/defendant nor the respondent/plaintiff claim can be made out from the impugned Order. There

is neither discussion as to the positions taken by the parties nor even a tentative mention of what triable issues have arisen, as expressed in the impugned Order. Finally, leave to defend has been considered under Article 10-A of the Constitution of Pakistan, 1973, which consideration is beyond the scope of Order 37 CPC. Indeed, at the stage of a leave to defend application granting order, the burden to make out a case for leave granting is on the applicant/defendant. The first port of call of defence in a summary suit is usually the "bounced cheque". It is for the applicant/defendant, who usually issues the cheque in question, which has bounced, to raise a plausible defence as to its dishonor. No discussion is found in the impugned Order.

Given the above, and in the facts and circumstances of the case, the impugned Order is set-aside, and the matter is remanded to the VIIth Addl. District Judge, Malir, to re-hear and decide the leave to defend application afresh, after issuing notice to the parties, by passing a speaking Order. The said exercise may be completed within 30 days from receipt of the certified copy of this Order by the VIIth Addl. District Judge, Malir. Office is directed to ensure compliance.

Accordingly, the civil revision application stands disposed of in the above terms

J U D G E

Asif