

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

1st Appeal No.30 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on C.M.A No.1032/2026 (U/A)
2. For orders on office objection (s)
3. For orders on C.M.A No.1033/2026 (Exemption)
4. For orders on C.M.A No.1034/2026 (41 R 5)
5. For hearing of main case

16.04.2026

Mr.Muhammad Akram Sahito, Advocate for the appellant

1. Granted.

2to5. Appellant Ali Gul the defendant/Judgment Debtor in Summary Suit No.35/2024 and Execution Application No.07/2025, respectively is aggrieved by the impugned Order dated 18.03.2026 passed by the learned Additional District Judge-IV/MCAC, Shaheed Benazirabad, on the ground that he has been condemned unheard and that the learned trial Court has erroneously dismissed the application under Order XXXVII Rule 4 C.P.C, seeking leave to defend in the summary suit.

Heard counsel. Counsel for the appellant contests the service effected upon him in the summary suit filed against him through pasting. He asserts that no such pasting ever took place. He further submits that the notice published in the daily newspaper *Kawish* was also not within his knowledge. According to him, it was for this reason that the summary suit proceeded *ex parte* against the appellant culminating in the judgment and decree dated 06.01.2025 and 08.01.2025 respectively and subsequently execution proceedings were also allowed vide order dated 19.07.2025, without giving opportunity of hearing to the applicant/defendant. Simultaneously, he submits that he filed an application under Section 5 of the Limitation Act, 1908, post the execution stage of the Summary Suit No.35 of 2024, before the Additional District Judge-IV, relying upon paragraph-4 of the supporting affidavit of the said application contending that

the delay in filing the February 2026 application to set-aside the judgment and decree dated 06.01.2025 and 08.01.2025, respectfully should be allowed. As noted in the impugned order dated 18.03.2026, neither any cogent reason or explanation has been furnished either in the main application or in paragraph-4 of the said affidavit in support of the limitation application to set-aside the judgment and decree and orders passed in the summary suit/execution and/or to condone the delay in filing the leave to defend application. A vested right has accrued to the plaintiff/respondent-decree-holder. Sufficient notice of filing of the banking suit was available to the defendant. In the facts and circumstances, even otherwise, no cause is made out to set-aside the judgment and decree and/or the execution. I find no grounds for interference in the impugned order. Accordingly, given the above reasons this 1st appeal is **dismissed** in limine along with listed application (s).

JUDGE

AHSAN K. ABRO