

ORDER SHEET
HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

1st Appeal No.S-66 of 2024.

DATE	ORDER WITH SIGNATURE OF JUDGE
	For hearing of C.M.A No.3662/24. For hearing of main case.

23.09.2026.

None present for Appellant. On 19.08.2026, the order was passed, whereby it was observed as under;

“The appellants/defendants Abdul Kaleem S/o Abdul Habib Shaikh and Abdul Habib S/o Muhammad Afzal Shaikh both by cast Shaikh are aggrieved by the judgment dated 02.11.2024 passed by the 1st Additional District Judge Kotri in Summary Suit No.08 of 2024. The first appeal was instituted on 25.11.2024 and has been listed in Court on several dates of hearing, but at no point in time have the appellants or their counsel entered appearance and/or furnished any intimation concerning their non-attendance. Once again, today none has appeared, and no intimation has been received.

Based on the aforesaid, I have proceeded to review this first appeal based on the documents and material available on record. The appellants/defendants in the memo of first appeal have principally raised certain grounds which include, inter-alia, references to criminal proceedings and the assertions that there was a disconnect/difference in the quantum of the amount which was claimed in the summary suit and that amount which had been asserted in the FIR No.426 of 2024 registered under Section 489-F PPC [paragraphs No.3, 6 and 14]; that the appellants/defendants did not have any business dealings with the plaintiff/respondent as he was an aged person almost of 70 years old and a former school teacher and thus there were no basis for issuance of the cheque in question, which ultimately bounced [paragraph No.7]; and there is misreading and non-reading of evidence [paragraphs No.11, 12 and 13].

A perusal of the impugned judgment dated 02.11.2025 discloses that the appellants/defendants had entered appearance and were defending the summary suit; however, when the conditional leave to defend order was passed, they failed to deposit the prescribed surety and kept requesting time, consequently, ultimately, this led to the matter being heard and decided forthwith by the Addl. District Judge; however, during the course of the proceedings, the respondent/plaintiff had moved

an application for amendment of plaint and such application was allowed, yet tentatively there appears to be prima facie reasons for which the judgment was passed. Indeed, even the bounced cheque and the memo are not found in the discussion and appear to have been neither produced in evidence nor discussed.”

Although the Respondent / plaintiff filed an application to amend the pleadings after the leave to defend had already been granted, yet a perusal of the plaint which was originally filed clearly demonstrates that there were four cheques, which were dishonoured and that these cheques totalled 15-Lac. Therefore, although the plaint stood amended the appellant / defendant had already been debarred from filing written statement and his leave to defend had also been dismissed. It is apparent from the face of record that the prayer mentioned in the original plaint was a typographical error and that no vested rights were accrued to the appellant / defendant in relation to such an amendment being granted subsequent to the dismissal of the leave to defend Application. I have perused the grounds of Appeal and the aforementioned ground alone has been agitated principally by the appellant / defendant. For the reasons given above, I do not find any illegality or infirmity in the impugned Judgment, hence this 1st Appeal is dismissed in the above terms alongwith pending application(s).

JUDGE

Ali.