

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Arshad Hussain Khan
Mr. Justice Amjad Ali Sahito

First Appeal No.14 of 2026

First Appeal No.15 of 2026

Appellant : Muhammad Tariq S/o Mian Ghulam
Mehboob through Mr. Fawad Ali Khichi,
Advocate

Respondent : Muhammad Amir S/o Meraj Ahmed
through Mr. Altaf Ahmed Shaikh

Date of Hearing : 15.10.2026

Date of Judgment: 15.10.2026

J U D G M E N T

Amjad Ali Sahito, J.- By this common judgment, we intend to dispose of both the First Appeals filed by the above-named appellant against the judgments dated 28.11.2025 and the decrees dated 05.12.2025 passed by the learned Additional District Judge-VII, Karachi Central, in Summary Suit No.11 of 2019 and Summary Suit No. 12 of 2019 respectively. Through the impugned judgments, the learned trial Court decreed both the suits filed by the respondent Muhammad Aamir for recovery of Rs.1,42,00,000/- each on the basis of two dishonoured cheques in each suit.

2. The facts, as emerging from the record, are that the respondent claimed to have business dealings with the appellant in the supply of fancy tile borders, which were supplied to the appellant on cash and credit basis for sale in the local market. According to the respondent, the parties had maintained business dealings over a considerable period, and an amount of Rs.3,84,38,045/- remained outstanding against the appellant. The respondent asserted that despite repeated demands, the appellant failed to discharge his liability, whereupon a Panchayati Committee was constituted at the request of the

appellant to resolve the dispute and settle the accounts between the parties.

3. The respondent maintained that the Panchayati Committee examined the accounts and other relevant material produced by the parties and determined the outstanding liability. According to the respondent, a concession of Rs.1,00,00,000/- was allowed on the condition that the appellant would pay the remaining amount of Rs.2,84,00,000/- in one lump sum. In pursuance of the settlement, the appellant issued four cheques of Rs.71,00,000/- each, aggregating to Rs.2,84,00,000/-. The respondent asserted that the concession was conditional upon payment of the entire agreed amount in lump sum and that, upon failure of the appellant to honour the cheques, the concession stood withdrawn in accordance with the settlement.

4. The respondent further alleged that the cheques were presented for encashment but were returned unpaid by the concerned banks with the remarks "Payment Stopped by Drawer". Consequently, the respondent instituted two separate summary suits under Order XXXVII, C.P.C., each seeking recovery of Rs.1,42,00,000/- on the basis of two cheques of Rs.71,00,000/- each. Summary Suit No. 11 of 2019, which is the subject matter of First Appeal No. 14 of 2026, concerned cheques bearing No. 1594488289 and 97197496, both dated 17.04.2016. Summary Suit No. 12 of 2019, which is the subject matter of First Appeal No. 15 of 2026, concerned cheques bearing Nos. 97197497 and 97197498, also dated 17.04.2016. The respondent claimed that the amounts represented by the respective cheques remained unpaid despite their presentation and dishonour.

5. Upon service of summons in the suits, the appellant sought leave to defend, raising objections regarding maintainability, the alleged absence of supporting business documents, limitation, and the division of the claim into two separate suits. He denied the outstanding liability claimed by the respondent and asserted that the four cheques had been delivered to the Panchayati Committee merely as security for the resolution of the dispute.

According to the appellant, a subsequent settlement was reached whereby he was required to pay only Rs.2,00,00,000/- to the head of the Panchayati Committee, namely Nadeem, who would, in turn, transfer the amount to the respondent upon fulfilment of certain conditions, including the return of the original documents and possession of his house and withdrawal of cases allegedly instituted against him and his family members.

6. The appellant further maintained that he had paid Rs.2,00,00,000/- in accordance with the alleged subsequent settlement and that the amount had been transmitted to the respondent through cheques and online transactions. He relied upon certain documents and stamps allegedly executed in connection with the subsequent settlement. According to him, since the cheques in question had originally been handed over to the Panchayati Committee as security, he instructed the concerned banks to stop payment when he learnt that the cheques had been delivered to the respondent. The appellant also challenged the institution of two separate suits, contending that the respondent had deliberately divided a single claim arising out of the same transaction to bring the suits within the pecuniary jurisdiction of the subordinate Court and avoid the jurisdiction of this Court.

7. The record further reflects that leave to defend was granted by the trial Court through an order dated 14.01.2020, subject to conditions, which were subsequently modified by this Court in Civil Revision Nos. 44 of 2020 and 45 of 2020 through a common order dated 09.10.2020, whereby the condition relating to a bank guarantee was removed. Thereafter, the appellant filed his written statement, and the learned trial Court framed issues concerning the maintainability of the suits, the alleged payment of the amounts claimed, the respondent's entitlement to recovery, and the relief to be granted. Upon recording the evidence of the parties and hearing their learned counsel, the learned trial Court decreed both suits through the impugned judgments dated 28.11.2025 holding that the appellant had failed to establish payment of the amounts claimed or any other legally sustainable defence against the respondent's claim. Being aggrieved by the

judgments and decrees passed by the learned trial Court, the appellant has preferred the instant appeals.

8. Learned counsel for the appellant appearing in both the appeals contended that the learned trial Court failed to properly appreciate the nature of the dispute and the evidence available on record. He argued that the respondent was required to establish his own case and could not obtain a decree merely by pointing out weaknesses in the appellant's defence. According to learned counsel, the respondent had failed to produce the complete vouchers, invoices, or balance sheets necessary to establish the alleged business transactions and the amount claimed to be outstanding. It was further contended that the four cheques arose from the same settlement and were issued on the same date; therefore, the respondent ought to have instituted one suit for the entire amount instead of dividing the claim into two separate summary suits, allegedly to circumvent the pecuniary jurisdiction of this Court.

9. Learned counsel for the appellant further submitted that the cheques contained particulars written in different inks and should, therefore, be treated as blank cheques. He maintained that the cheques were handed over to the Panchayati Committee as security and were not intended to be presented for payment independently of the settlement. It was also argued that the appellant had subsequently paid Rs.2,00,00,000/- through Nadeem, the head of the Panchayati Committee, pursuant to a later settlement, and that the respondent could not recover the amount again after receiving payment through a third person. He also argued that no legal notice had been issued before institution of the suits and that the claims were barred by limitation under Article 73 of the Limitation Act, 1908. On these grounds, he prayed that both appeals be allowed and the impugned judgments and decrees be set aside.

10. Conversely, learned counsel for the respondent appearing in both the appeals supported the impugned judgments and argued that the suits had been properly instituted under Order XXXVII, C.P.C., on the basis of cheques issued by the appellant

pursuant to a settlement arrived at before the Panchayati Committee. He submitted that the parties had been engaged in business dealings relating to the supply of fancy tile borders and that the accounts were examined by the Panchayati Committee before the outstanding liability was determined. According to learned counsel, the appellant accepted the settlement and issued four cheques of Rs.71,00,000/- each in favour of the respondent, against which a concession of Rs.1,00,00,000/- had been allowed on the condition of lump-sum payment. Since the cheques were dishonoured, the respondent was entitled to recover the amounts represented by them.

11. Learned counsel for the respondent further contended that the objection regarding the division of the claim into two suits had already been raised before the trial Court including through an application under Order VII Rule 11, C.P.C., in Summary Suit No.12 of 2019, which was dismissed by order dated 23.04.2024 and was not challenged by the appellant. He argued that the appellant had admitted the issuance of the four cheques and the constitution of the Panchayati Committee, while his assertion that the cheques were merely security instruments was not supported by the settlement documents. Learned counsel further submitted that the appellant had failed to establish either the alleged subsequent meeting of the committee or payment of Rs.2,00,00,000/- to Nadeem, and no reliable documentary evidence had been produced to demonstrate that the respondent had received the claimed amount. He accordingly prayed that both appeals be dismissed and the impugned judgments be maintained.

12. We have heard learned counsel for the parties and have carefully examined the available record.

13. The controversy essentially involves determining whether the appellant has established any legally sustainable ground for setting aside the decrees passed in favour of the respondent in respect of the four dishonoured cheques, and whether the objections relating to the subsequent settlement, alleged

payment, limitation, and institution of separate suits justify interference by this Court.

14. At the outset, it is necessary to keep in view that both suits arise from the same underlying business dispute and the settlement recorded before the Panchayati Committee. However, each suit concerns a distinct pair of cheques, and the respondent sought recovery of Rs.1,42,00,000/- in each suit. The fact that the four cheques originated from the same settlement does not establish that the decrees passed in the two suits are unlawful. The appellant was required to demonstrate a legally sustainable bar to the institution of separate proceedings or show that the trial Court committed an error warranting interference. The record reflects that the objection regarding the division of the claim was raised before the trial Court and that the application under Order VII Rule 11, C.P.C., in Summary Suit No. 12 of 2019 was dismissed on 23.04.2024. The appellant's contention, therefore, cannot be accepted merely on the assertion that one suit could have been filed for all four cheques. The appellant has not demonstrated, on the material available before us, that the impugned decrees are liable to be set aside solely on that account.

15. The objection concerning limitation has also been considered. The learned trial Court noted that the appellant had not specifically raised the plea of limitation in his written statement or affidavit-in-evidence, although the point was subsequently argued by his counsel. The trial Court further noticed that in his affidavit-in-evidence, the appellant himself stated that the suit had been filed on the last day of limitation, viz. 17.04.2019. The learned trial Court also examined the applicability of Article 64-A of the Limitation Act, 1908 to suits instituted under Order XXXVII, C.P.C., and held that the special provision governing summary suits would prevail over the general provision relied upon by the appellant. Having considered the reasoning adopted by the learned trial Court and the material available on record, we find no convincing legal or factual basis to hold that the suits were barred by limitation.

16. The objection that the respondent failed to establish the underlying business dealings because complete vouchers or a balance sheet were not produced also does not, in the circumstances of these cases, displace the material relied upon by the trial Court. The respondent's case was not confined to an unsupported assertion of an outstanding business balance. He relied upon the Panchayati Committee's settlement documents, the Iqrarnama, the Mukhtarnama, the statements of account and other documents, together with the cheques forming the subject matter of the suits and the respective bank memos showing their dishonour. The trial Court also considered the oral evidence of the parties and their witnesses. The significance of this material is that the appellant did not merely deny the alleged business dealings; he admitted the constitution of the Panchayati Committee and the issuance of the four cheques, while advancing a positive defence that the cheques were only security and that the liability had subsequently been settled and paid. The sustainability of that defence must, therefore, be assessed against the documentary and oral evidence considered as a whole.

17. The appellant's assertion that the cheques were handed over to the Panchayati Committee only as security is inconsistent with the admissions noticed by the learned trial Court. In cross-examination, the appellant admitted that the Panchayati Committee had been constituted by the parties in respect of their business dispute and that he had signed the Mukhtarnama relating to that committee. He further admitted that pursuant to the committee's decision, he issued four cheques in favour of the respondent for a total amount of Rs.2,84,00,000/- and that a concession of Rs.1,00,00,000/- had been allowed on the condition of payment in lump sum. The head of the Panchayati Committee, Muhammad Mohsin, also acknowledged the settlement and the issuance of the four cheques. These admissions materially support the respondent's case that the cheques were issued pursuant to the settlement in favour of the respondent and were not merely instruments retained by the committee without authority to present them for payment.

18. The fact that different inks may have been used in filling in the particulars of the cheques does not establish that the instruments were unauthorized or that the liability represented by them had been discharged. The appellant admitted their issuance and relied upon the alleged subsequent settlement and payment as his defence. The trial Court was, therefore, justified in considering the admitted issuance of the cheques together with the settlement documents and the evidence concerning their presentation and dishonour. The appellant has not shown that the use of different inks, in itself, invalidated the cheques or rebutted the respondent's claim.

19. The principal defence of the appellant was that a subsequent meeting of the Panchayati Committee had reduced the amount payable to Rs.2,00,00,000/- and that he had paid this amount to Nadeem, who was allegedly to transfer it to the respondent. The trial Court examined this plea in detail and found that the appellant had not produced reliable evidence establishing the alleged subsequent meeting or its decision. In his cross-examination, the appellant admitted that he did not remember whether a subsequent meeting of the Panchayati Committee had taken place and that he had not produced the minutes of any such meeting or any other document relating to it. He also admitted that he had not produced a document showing payment by him to Nadeem. Furthermore, the Mukhtarnama did not contain any condition or authority empowering the committee members to receive the amount from the appellant on behalf of the respondent. These admissions substantially weaken the appellant's assertion that the original settlement had been superseded and the liability discharged through a third person.

20. The evidence of Muhammad Mohsin, the head of the Panchayati Committee and the appellant's own witness, also assumes significance in this context. Although he supported the appellant's version in his affidavit-in-evidence, he admitted during cross-examination that the Mukhtarnama did not authorize him or Nadeem to receive payment from the appellant on behalf of the respondent. He further admitted that Nadeem

had not paid any amount to the respondent in his presence and that his statement concerning such payment was based on hearsay. He also acknowledged that he had produced no documentary proof showing payment by the appellant to the respondent. The trial Court was thus justified in declining to treat the alleged subsequent payment as established merely on the basis of the appellant's assertion and the uncorroborated statement of his witness.

21. The respondent, on the other hand, relied upon the original and photostat documents referred to in the impugned judgments, including the Iqrarnama, Mukhtarnama, statement of the Panchayati Committee, statements of account, receipts, the cheques in dispute, and the respective bank return memos. The record of Summary Suit No.12 of 2019 further shows that the respondent produced the original cheques and bank memos through a court clerk who had been summoned to produce the relevant record from the criminal proceedings. The cheques and memos were accordingly considered alongside the copies exhibited by the respondent. The respondent's evidence was also supported by the testimony of his witnesses, Haji Rafiq Ahmed and Rizwan Ahmed, whose depositions and exhibited documents were discussed by the trial Court.

22. The contention based on Section 41 of the Contract Act, 1872, does not lead to a different conclusion. The provision concerns a situation where a promisee accepts performance of a promise from a third person and thereafter seeks to enforce the same promise against the original promisor. In the present cases, the essential factual premise of the appellant's argument that the respondent accepted payment of the liability through Nadeem was disputed and required proof. The appellant was required to establish not only that payment had been made to Nadeem but also that such payment was made towards the liability in question and was received or accepted on behalf of the respondent. The absence of documentary proof of payment, the absence of demonstrated authority in the Mukhtarnama, and the admissions of the appellant's own witness concerning the alleged

payment prevent the appellant from relying upon Section 41 to defeat the respondent's claims.

23. The further objection that no legal notice was issued before filing the suits has not been shown to disclose any defect sufficient to invalidate the decrees under challenge. The suits were instituted on the basis of cheques issued pursuant to the settlement and subsequently returned unpaid. The appellant has not demonstrated, by reference to any applicable legal requirement established in the record, that the absence of a prior legal notice rendered these particular summary suits incompetent. This objection, therefore, does not furnish a sufficient ground for setting aside the impugned judgments.

24. We have also considered the respective findings recorded by the learned trial Court on the issues framed in the suits. The trial Court answered the issue of maintainability and legal bar in the negative, the issue concerning payment of the claimed amounts in the negative, and the issue regarding the respondent's entitlement to recovery in the affirmative. These findings were based not merely on the respondent's assertion but on the admissions of the appellant concerning the constitution of the Panchayati Committee and issuance of the four cheques, the relevant settlement documents, the evidence of the respondent and his witnesses, and the failure of the appellant to establish the alleged subsequent settlement and payment. The appellant has not pointed out any material misreading or non-reading of evidence that would justify reversal of those findings in appellate jurisdiction.

25. In the light of the foregoing discussion, we find that the respondent established his claims through the cheques forming the subject matter of the two suits, the relevant settlement documents, and the oral and documentary evidence considered by the learned trial Court. The testimony of the respondent, Muhammad Aamir, was supported by the evidence of Rafiq and Rizwan Ahmed, including their identification and verification of relevant documents and the cheques issued by the appellant in the respondent's favour. The evidence of the court clerk

concerning production of the original cheques and bank memos as recorded in the judgment in Summary Suit No.12 of 2019 further supported the fact of issuance and dishonour of the two cheques involved in that suit. On the other side, the appellant, Muhammad Tariq, admitted the issuance of the four cheques pursuant to the Panchayati settlement but failed to substantiate his plea that they had been issued only as security. His own witness, Muhammad Mohsin, acknowledged the settlement and issuance of the cheques, while also admitting that neither he nor Nadeem had been authorized in the Mukhtarnama to receive payment on behalf of the respondent, that Nadeem had not paid any amount to the respondent in his presence, and that his statement regarding such payment was based on hearsay. The appellant also failed to produce documentary proof of the alleged subsequent meeting, the alleged revised settlement, or the payment of Rs.2,00,00,000/- to Nadeem. Thus, the oral and documentary evidence, when read together, does not support the appellant's principal defence of discharge of liability. We find no sufficient ground to disturb the conclusions reached by the learned trial Court in either suit.

26. For the reasons discussed above, both appeals are **dismissed**. The judgments dated 28.11.2025 and the decrees dated 05.12.2025 passed by the learned Additional District Judge-VII, Karachi Central, in Summary Suit No. 11 of 2019 and Summary Suit No. 12 of 2019 are hereby **maintained**.

JUDGE

JUDGE

KAMRAN/PS