

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

1st Appeal No.S-87 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of CMA No.2841/2025
For hearing of CMA No.2842/2025
For hearing of CMA No.2844/2025
For hearing of main case.

07-09-2026

Mr. Ali Khan Laghari, advocate for respondent.

JAWAD AKBAR SARWANA, J:- None present for the appellant. The same was the position on the last two dates of hearing. On the last date of hearing, an e-notice was also issued to the appellant and his counsel, but no one appeared today. In these circumstances, I have proceeded to decide this 1st appeal on the basis of material available on record.

Abdul Waseem son of Ghulam Sarwar, applicant/defendant, is aggrieved by the ex-parte judgment and decree dated 10.09.2025 passed by V-Additional District Judge, Hyderabad, in Summary Suit No.103 of 2024.

The applicant/defendant, in the memo of this 1st Appeal, submits that after conditional leave to defend was allowed, he was unable to comply with the Court's directions to arrange a solvent surety in the amount of Rs.1,370,000/-. He has argued that there was no contractual liability for the bounced cheques. In the circumstances, the Court ought to have considered this aspect, which was apparently clear and formed the basis of the leave-granting. Therefore, this (High) Court ought to set aside the impugned judgment.

As per paragraph No.3 of the impugned judgment dated 10.09.2026, after the leave to defend was granted to the applicant/defendant, the applicant/defendant failed to furnish the required surety, and instead challenged the said leave-granting order but to no effect as no stay was obtained and the trial Court struck off the applicant/defendant's defence in the summary suit. Meanwhile, as per paragraph 5 of the impugned judgment, the plaintiff stepped into the witness box, wherein, after bringing on record the material evidence in support of his claim, the V-Additional District Judge, Hyderabad, passed the impugned judgment in favour of the plaintiff/respondent.

It is now a trite proposition of law, which has been enunciated by our courts in numerous reported and unreported cases, including of the (High) Court of Sindh

at Circuit Court, Hyderabad, placing reliance on the judgment of *Pestonji Shapurji Narelwalla Vs. Jamshedji Nowroji Gamadia (AIR 1926 Bombay 250)* and the Supreme Court of Pakistan, decision reported as *Umer Khan Vs. Haji Musa Jan (2009 SCMR 1101)*, that once the summary court has directed the defendant to file the written statement, no further rights are created in favour of the defendant in the event that the defendant does not comply with the conditions of the leave-granting order.

In the present case, the applicant/defendant moved a Revision Application seeking recall of the order for furnishing surety. The (High) Court did not pass any stay of proceedings order in the revision, and no documentary evidence was available to rebut the claim put up by the plaintiff/respondent; accordingly, the summary suit based on the dishonoured cheque(s), supported by the bank memo, went un rebutted. Thus, in the circumstances, the learned Additional District Judge-V, Hyderabad, passed the judgment and decree.

For the foregoing, there being no material illegality or irregularity in the impugned judgment and decree dated 10.09.2025 passed by the learned Additional District Judge-V, Hyderabad, in Summary Suit No.103 of 2024, the 1st Appeal is misconceived and is accordingly dismissed along with the listed applications.

J U D G E

Irfan Ali