

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

1st Appeal No.S-68 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objections.
For orders on exemption application.
For orders on CMA No.1912/2026.
For orders on CMA No.1915/2026.
For hearing of main case.

07-09-2026

Mr. Faisal Yousuf Memon, advocate for the appellant.

JAWAD AKBAR SARWANA, J:- Altaf Uddin son of Fayyaz Uddin, applicant/defendant, is aggrieved by the ex-parte judgment dated 09.07.2026 passed by V-Additional District Judge, Hyderabad, in Summary Suit No.227 of 2025.

Counsel for the applicant/defendant contends that after leave to defend was allowed, he was unable to comply with the directions of the Court to arrange solvent surety in the amount of Rs.1,200,000/-. He submits that there was no contractual underpinning for the bounced cheque. In the circumstances, the trial Court ought to have dealt with the matter on its own motion and dismissed the respondent/plaintiff's summary suit. Therefore, he contends that this (High) Court should set aside the impugned judgment. In this regard, he has relied on the Supreme Court judgment reported as PLD 1995 Supreme Court 362.

Heard counsel. As per paragraph No.5 of the impugned judgment dated 09.07.2026, after leave to defend had been granted to the applicant/defendant, in the present case, the applicant/defendant had moved a revision application seeking recalling of order for furnishing surety; however, no relief came forth and the defence of the defendant was struck-off. Meanwhile, as per the said paragraph, the plaintiff also stepped into the witness box, wherein, after bringing on record the material documents/evidence, the V-Additional District Judge, Hyderabad, passed the impugned judgment in favor of the respondent/plaintiff.

It is now a trite proposition of law, which has been enunciated by our courts, including this High Court of Sindh at Circuit Court, Hyderabad, in several judgments/orders passed this year (2026), relying on the judgment of Pestonji Shapurji Narelwalla Vs. Jamshedji Nowroji Gamadia (AIR 1926 Bombay 250) and the Supreme Court of Pakistan in the decision reported as Umer Khan Vs. Haji Musa Jan (2009 SCMR 1101), that once the 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, no documentary evidence was available to rebut the claim put up by the plaintiff/respondent, and the summary suit based on the dishonoured cheque, supported by the bank memo, went unrebutted. 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 09.07.2026 passed by the learned Additional District Judge-V, Hyderabad, in Summary Suit No.227 of 2025, the 1st Appeal is misconceived and is accordingly dismissed along with the listed applications.

J U D G E

Irfan Ali