

ORDER SHEET
HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

1st Appeal No.S-15 of 2020.

<i>DATE</i>	<i>ORDER WITH SIGNATURE OF JUDGE</i>
	For orders on C.M.A No.1411/20. For orders on C.M.A No.1412/20. For hearing of main case.

09.09.2026.

None present.

Jawaid Hussain Keryo s/o Zawar Allah Bachayo Keryo, Appellant/defendant, is aggrieved by the Judgment dated 18.08.2020 and Decree dated 24.08.2020, passed by the Additional District Judge-V, Hyderabad (“the trial Court”), in Summary Suit No.45 of 2018 filed by the Respondent/plaintiff-Abid Hussain s/o Fateh Muhammad. None are present on behalf of the Appellant today, and no intimation has been received from the appellant/defendant. This first Appeal was initially dismissed on 22.11.2023 for non-prosecution and thereafter restored by this High Court on 09.02.2026; however, once again, none are in attendance. No intimation has been received. Accordingly, I have proceeded to decide the matter based on the available record.

In view of the above, I have perused the documents on record, including, inter alia, the grounds of appeal. Basically, the appellant/defendant has taken the cover of the Coronavirus (Covid-19) pandemic to justify his inability to submit surety of Rupees Fifty Lakhs (Rs.50,00,000/-) at the material time within the stipulated period of one (01) month. Yet, as per the first paragraph of page no.2 of the impugned Judgment, the learned trial Court has recorded that after the conditional leave to defend was granted by the trial Court on 21.02.2020, the appellant/defendant filed an application to reduce the quantum of the surety. Be that as it may, the trial Court extended the time for furnishing surety till the first opening day of the Court, which also included the period after relaxation of the Covid-19 lockdown, i.e. on 03.08.2020. However, the defendant did not submit any surety, whereafter the trial Court struck off

the defence of the appellant/defendant and proceeded to pass judgment and decree against the appellant/defendant.

As per the impugned judgment, the respondent/plaintiff annexed a copy of the post-dated cheque no.39080516 dated 25.04.2018 in the sum of Rupees Five Crore Seventy Nine Lakh Sixty Six Thousand Three Hundred Five (Rs.5,79,66,305/-). In the circumstances, as described herein above, as no defence was put up by the appellant/defendant in terms of the conditional leave granting order; therefore, the trial Court proceeded to pass Judgment and Decree.

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.

For the foregoing, there being no material illegality or irregularity in the impugned Judgment dated 18.08.2020 and Decree dated 24.08.2020 passed by the learned Additional District Judge-V, Hyderabad, in Summary Suit No.45 of 2018, the 1st Appeal is misconceived and is accordingly dismissed along with the listed applications.

JUDGE

Ali.