Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

R.A. No.S-70 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE(S)

For hearing of main case.

17-10-2026

M/s. Samiullah Rind and Bilal Mustafa Chandio, advocates for the applicant.

Mr. Riazuddin Qureshi, advocate for the respondent.

JAWAD AKBAR SARWANA, J:- Zakir Hussain son of Muhammad Idrees (applicant/defendant) is aggrieved by the order dated 14.04.2025, whereby his application under Order IX Rule 7, CPC, seeking permission to have the surety furnished by his spouse accepted on record in Summary Suit No. 75 of 2024, pending before the learned 7th Additional District Judge, Hyderabad (trial Court), instituted by Seed Akhtar son of Sultan Khan (respondent/plaintiff), was dismissed.

2. Learned counsel for the applicant/defendant contended that, vide order dated 06.12.2024, the trial Court had conditionally granted leave to the defendant to defend the suit, subject to furnishing surety in the sum of Rs.500,000/- and a P.R. bond within fifteen days. However, when the matter came up for hearing on 07.01.2025, although the surety had not been furnished within the stipulated period, the defence of the applicant/defendant was struck off at about 2:45 p.m. on the same day on account of non-furnishing of the surety. Learned counsel further contended that, at about 3:00 p.m. on the same day, he submitted the surety, which is available on the record, but the learned trial Court declined to accept the same. He further submitted that, upon moving an application for recall of the said order on 07.02.2025, the learned trial Court passed the impugned order dated 14.04.2025.

3. Heard learned counsel for the parties and perused the record. It appears from the record that, although the time granted by the trial Court to the applicant/defendant for furnishing the surety had expired, the surety was nevertheless submitted on the very first date on which the Presiding Officer conducting the trial was in attendance, as the matter had earlier not proceeded owing to the Presiding Officer's leave. I have perused the case diary maintained in Summary Suit No. 75 of 2024. The impugned order passed by the learned trial Court appears to be quite harsh in the circumstances of the case. Moreover, it is a settled principle of law that matters should be decided on their merits rather than on technicalities.

4. In view of the foregoing, this Revision Application was allowed vide my short order dated 06.11.2025, whereby the impugned order dated 14.04.2025 was set aside. Additionally, the short order also enabled written statement which the applicant/defendant had submitted in the trial Court to be taken on record and for proceedings to recommence regarding the defense of the suit.

5. These are the reasons for the aforesaid short order.

J U D G E

Irfan Ali