

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

1st Appeal No.S-06 of 2023

| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
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1. For hearing of C.M.A No.411/2023
2. For hearing of main case

27.04.2026

This is the third occasion of hearing yet the appellant has been dilly-dallying hearing and avoiding to proceed with the matter. Today, none is present for the appellant and no intimation is received. This First Appeal was instituted on 07.02.2026 by the appellant/ defendant No.2-Mst. Raheela Bano Ex-wife of Hidayatullah Memon (defendant No.1/respondent No.2) in Summary Suit No.07 of 2017. The appellant/defendant No.2 is aggrieved by the judgment and decree dated 10.01.2023, passed by the learned VIII-Additional District Judge, Hyderabad, in the said summary suit. The appellant has pleaded that the learned trial Court passed the impugned judgment without proper appreciation of the evidence brought on record and additionally, without affording her an opportunity to cross-examine respondent No.1/plaintiff Mst. Rani Kanwal Khawaja.

A perusal of the evidence available on record demonstrates that the appellant-Mst. Raheela Bano and her ex-husband Hidayatullah (defendant No.1) had allegedly allotted two flats and one house to respondent No.1/plaintiff. The total sale consideration was Rs.14,000,000/- (Rupees One Crore Forty Lac). In this connection, the appellant/defendant No.2-Mst.Rahila Bano issued three cheques of Rs.2,000,000/- each, totaling Rs.6,000,000/-, which were dishonoured and produced in evidence along with the memos of dishonourment. Although the appellant entered appearance and filed an application for leave to defend, which was allowed conditionally, but she failed to submit a solvent surety and did not file her written statement and the lis proceeded ex parte against her. Her present

plea that she was not afforded an opportunity to cross-examine the plaintiff is belied by the record, which reflects that such opportunity was always available to her and that no restraint was in force. The respondent No.1/plaintiff produced the original cheques which were dishonoured and the memos of dishonourment for the bounced cheques. The appellant/defendant No.2 has pleaded in this appeal that an earlier filed Summary Suit No.57/2015, concerned the same matter and this suit was dismissed for non-prosecution. Yet at the same time it is not her (appellant/defendants) defence that the bounced cheques which are subject matter of Summary Suit No.57/2015 are the same subject matter in this summary suit (second). Appellant/defendant has not filed copy of the dismissal order passed in Summary Suit No.57/2015. There is no plausible material available in this appeal for me to reconsider the impugned judgment on this ground. The appellant/defendant No.2 has also pleaded that she is not a person of means and the respondent No.2/defendant No.1 divorced her on 10.07.2017, while the litigation was pending to mitigate exposure. Regrettably, I am unable to entertain this ground given the evidence brought on record viz: appellant/defendant No.2 issued cheque to the respondent No.1/plaintiff drawn on the account of appellant/defendant No.2. Legally speaking her former husband-respondent No.2/defendant No.1 was/is not the author of the dishonoured cheques. Finally, even otherwise, the impugned judgment passed by the learned VIII-Additional District Judge, Hyderabad, is well-reasoned and duly considers the defence raised by the appellant, as well as the evidence brought on record. In the circumstances, no ground is made out for interference in the impugned judgment and decree. Given the above, the First Appeal is **dismissed** along with the listed application.

JUDGE