

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.460 of 2017

[Syed Yawar Abbasv.....Zeeshan Hussain & others]

Date of Hearing : 03.09.2021
Plaintiff through : Mr. Waqas Asad Shaikh, Advocate
Defendant : Nemo

JUDGMENT

Zulfiqar Ahmad Khan, J:- In essence, this suit for recovery and damages has been filed by the plaintiff against the defendants alleging therein that the plaintiff provided a sum of Rs.20,000,000/- to the defendant No.1 on 03.06.2014 at his request and that the defendant No.1 had to repay the same alongwith profits. Plaintiff alleged that he with the passage of time requested the defendants to return the said amount alongwith profit but the defendants kept the plaintiff on hollow hopes and did not repay the same. It is further stated in the plaint that the defendant No.1 signed a mutual agreement with plaintiff on 06.06.2016 and also issued a cheque No.38912200 dated 01.09.2016 that was dishonored on its presentation in the bank. Plaintiff averred in the plaint that the defendant No.1 intentionally issued the cheque which was aimed to be dishonored and usurped his amount as well as despite contacting the defendant No.1 various time, the latter failed to return the amount, therefore, he filed this suit for the recovery of those sums as well as claimed damages on account of suffering mental torture and agony at the hands of defendants and prayed as follows:-

“i). to pass judgment and decree against the Defendant No.1 for requiring them to pay principal

amount of Rs.2,00,00,000 together with profit/markup @ 15% per anum from the date of default of the suit till realization of decretal amount.

ii). To pass judgment and decree for Rs.2,00,00,000 for damages and loss caused to the plaintiff for blockage of amount.

iii). Award cost.

iv). Grant any other relief deemed appropriate in the circumstances of the case.”

2. The notices were issued to the defendants, but nobody appeared on behalf of the defendants. Having complied with requisite substitute mode of service i.e. publication, the defendants were declared ex parte vide order dated 27.03.2019.

3. In support of his pleadings, the plaintiff has filed affidavit-in-ex parte proof. Learned counsel for the plaintiff examined the plaintiff, who produced his affidavit-in-ex parte as Exh. PW-1/1 and produced other documents from Exh. P-1/2 to P-1/20-A. In order to bolster his version and strengthen his case, the plaintiff has also produced two witnesses as Exh. P.W-2 & PW-3 who supported the version of the plaintiff. Since none appeared on behalf of the defendants upon having been declared ex parte, the cross remained nil.

4. I have examined the evidence and also heard learned counsel for the Plaintiff. The plaintiff has produced original documents which are sufficient to accept the claim of the plaintiff whilst none appeared to challenge the claim of the plaintiff. Even otherwise the plaintiff's evidence has gone unrebutted and unchallenged. Therefore, there is no option but to believe the unchallenged version of the plaintiff. Resultantly the suit is decreed to the extent that the

defendants are directed to pay a sum of Rs.20,000,000- with 10% interest per annum to the plaintiff jointly and severally. Office is directed to prepare the decree accordingly. Parties are left to bear their own costs.

JUDGE

Karachi
Dated 29.05.2022

Aadil Arab