

ORDER SHEET
**HIGH COURT OF SINDH CIRCUIT COURT,
HYDERABAD**

R.A No.98 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>28.04.2023</u>	

Mr. Masood Rasool Babar, advocate for applicant

Syed Babar Kazim advocate files power on behalf of
respondent, which is taken on record.

ORDER

ADNAN-UL-KARIM MEMON, J.- Through captioned revision application, the applicant has challenged the Order dated 30.03.2023 passed by learned Additional District Judge-VII Hyderabad on an application under Order IX Rule 7 CPC moved in Summary Suit No.171 of 2022 [Re: Noor-ul-Amin v. Umair Ahmed], whereby the trial Court dismissed the application and fixed the matter for recording evidence of the plaintiff.

2. Brief facts of the case are that respondent/plaintiff filed Summary Suit No. 171 of 2022 for recovery of an amount of Rs.12,60,000/- and vide Order dated 08.02.2023 conditional leave to defend was granted to present applicant to defend the suit after furnishing surety in the sum of Rs.5,00,000/- and PR Bond of two million; however, same was not furnished, resultantly vide Order dated 24.02.2023 present applicant was debarred; where-after he filed an application under Order IX Rule 7 CPC, praying for recall of Order dated 24.02.2023, however, the trial Court after hearing the parties dismissed the said application, hence this revision application.

3. Mr. Masood Rasool Babar counsel for applicant submits that though the applicant was ready and willing to furnish surety in terms of Order dated 08.02.2023, however, his previous counsel had given mis-statement before the trial Court, as such the applicant was debarred. He submits that the applicant is still ready to furnish surety before the trial Court in terms of Order dated 08.02.2023.

4. On the other hand Syed Babar Ali Kazmi counsel for respondent after arguing the matter at some length, agreed that captioned revision application may be disposed of with directions to the applicant to furnish

surety before the trial Court in terms of Order dated 08.02.2023 and the trial Court may be directed to conclude the matter on merits within month.

5. Accordingly, by consent the impugned Order dated 30.03.2023 is set aside with direction to the applicant to furnish surety before the trial Court in terms of Order dated 08.02.2023 (passed by the learned trial Court in the subject suit) within two weeks from today, and then the trial Court shall conclude the proceedings within one month. In case of failure to furnish surety, the order dated 30.03.2023 passed by the trial court shall revive and consequences shall follow.

6. Captioned revision application stands disposed of in the above terms.

JUDGE

Sajjad Ali Jessar