

# IN THE HIGH COURT OF SINDH AT HYDERABAD

R.A. 184 of 2021 : Iftikhar Ahmed Vs. Ghulam Shabir & Others  
For the Applicant : Mr.Ali Shahzad Memon, Advocate  
Date/s of hearing : 28.11.2023.  
Date of announcement : 28.11.2023.

## ORDER

**Agha Faisal, J.** This revision application assails order dated 11.08.2021 passed by the VIII Additional District Judge Hyderabad in Summary Suit No.37 of 2020. The operative part of impugned order is reproduced herein below:

"I have considered the submissions of both the learned advocates and gone through the case file. Record shows that defendant No.1 issued the cheque which h on presentation bounced while defendant No.2 not issued any cheque in favour of plaintiff, therefore, application for leave to defend filed by defendant No.2 is allowed unconditionally with direction to defendant No.2 to file written statement on or before date of hearing while application for leave to defend of defendant No.1 is concerned he had issued cheque which bounced on presentation, therefore, his application for leave to defend is allowed conditionally to furnishing security in the sum of Rs.600,000/- on or before date of hearing. Both applications are disposed of accordingly"

Learned counsel submits that although his leave to defend application was granted, but it was conditional. The entire case of the applicant is that leave to defend ought to have been granted unconditionally, hence, this revision.

It is settled law that the trial court is competent to grant leave to defend, conditional or otherwise at its discretion. The trial court appears to have exercised its jurisdiction and no infirmity in such regard is manifest. It is trite law<sup>1</sup> that where the fora of subordinate jurisdiction had exercised its discretion in one way and that discretion had been judicially exercised on sound principles the supervisory forum would not interfere with that discretion, unless same was contrary to law or usage having the force of law. It is the considered view of this court that no manifest illegality has been identified in the order impugned and further that no defect has been pointed out in so far as the exercise of jurisdiction is concerned of the subordinate forum.

Notwithstanding the foregoing, learned counsel was unable to cite a single ground based upon which the jurisdiction of this Court could be exercised under section 115 of Code of Civil Procedure. There is no suggestion that the impugned order is either an exercise without jurisdiction or a failure to exercise jurisdiction or an act in exercise of jurisdiction illegally or with any material irregularity.

In view hereof, this revision is found to be misconceived and devoid of merit, hence, hereby dismissed along with listed application/s.

Judge

A.Rasheed/stenographer

<sup>1</sup> Per *Faqir Muhammad Khokhar J.* in *Naheed Nusrat Hashmi vs. Secretary Education (Elementary) Punjab* reported as *PLD 2006 Supreme Court 1124*; *Naseer Ahmed Siddiqui vs. Aftab Alam* reported as *PLD 2013 Supreme Court 323*.