

Order Sheet
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

R.A. No.363 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

1. For orders on CMA 3573/2023
2. For orders on office objections
3. For orders on CMA 3475/2023
4. For orders on CMA 3476/2023
5. For hearing of main case

20.12.2023

Mr. Mashooque Ali Mahar advocate for applicants.

1. Granted.

2to5. Summary Suit 31 of 2023 was filed against the applicants before the 7th Additional District Judge Hyderabad wherein the applicants filed a leave to defend application. The said application was granted vide order dated 21.11.2023, however, the applicants are aggrieved to the extent that leave was granted subject to furnishing solvent surety and PR Bond.

It is contended that the leave ought to have been granted unconditionally. The argument articulated in such regard is that the trial court did not appreciate the facts of the case properly while arriving at the impugned decision.

It merits little reiteration 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 law¹ 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 *in limine* along with listed application/s.

Judge

Ali Haider

¹ 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*.