

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

R.A No.41 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on CMA-432/2022
2. For hearing of main case.

14.05.2024.

Mr. Aghis-u-Salam Tahirzada, Advocate for Applicant.
Mr. Khalil-ur-Rehman Leghari, Advocate for Respondent.

ORDER

YOUSUF ALI SAYEED, J.- The Applicant has preferred this Application under Section 115 CPC so as to impugn the Order made on 13.01.2022 by the Vth Additional District Judge Hyderabad in Summary Suit No.70 of 2021 allowing his application for leave to defend, albeit conditionally, subject to the furnishing of surety commensurate to the amount claimed on the basis of the negotiable instrument said to have been dishonoured, with the Applicant being aggrieved to that extent and it being contended that leave ought to have been granted unconditionally on the assertion that the trial court did not appreciate the facts of the case properly while imposing such terms.

2. 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 law that where the concerned Court below has 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 the same is contrary to law or usage having the force of law.

3. However, in the matter at hand, no manifest illegality or defect has been pointed out in so far as the exercise of jurisdiction is concerned, and learned counsel was unable to cite a single ground based upon which the revisional jurisdiction of this Court could be exercised, with there being no suggestion that the impugned Order was made without jurisdiction or suffers from illegally or any material irregularity.

4. That being so, the Revision is found to be devoid of merit, and accordingly stands dismissed *in limine* along with pending miscellaneous application.

JUDGE

Shahid