

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
1st. Civil Appeal No. S – 24 of 2023

Date of hearing

Order with signature of Judge

Hearing of case

For hearing of main case

26.08.2024

Mr. Zulfiqar Ali Leghari, Advocate for the Appellant

ORDER

ZULFIQAR AHMAD KHAN, J;- Despite service, the respondent has not put his appearance. This is an Appeal against the judgment and decree dated 02.05.2023 and 05.05.2023, respectively, rendered in Summary Suit No.147/2021 by learned Additional District Judge, Mirwah.

Counsel for the appellant states that facts were wrongly appreciated in the impugned judgment, as in fact leave to appeal of the respondent was dismissed vide order dated 30.06.2022 whereas, the Court has held that the leave to appeal was allowed subject to furnishing bank guarantee. Not only so, Counsel states that the judgment has been rendered by placing reliance on the judgment of the Lahore High Court, where the relationship between both the parties was denied allegedly on the ground that the appellant had failed to show any accounting record. Counsel suggests that the cheque itself is the sufficient evidence that there were considerations for issuing the cheque. Counsel states that the appellant is a shopkeeper and he filed Suit for recovery of 1.65 million to the respondent against which the impugned issued cheque was never encashed. Serious error of law, as per counsel, has been committed by the concerned Court.

In the circumstances at hand, where a negotiable instrument itself is sufficient to establish relationship between the parties which fact has not been denied by the respondent and where, per learned counsel, the respondent has partly paid by admitting his liability before the Court (available at page 35), the instant appeal is allowed as prayed and impugned judgment is set-aside.

Judge