ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Ist Appeal No. 32 of 2018
(Muhammad Imtiaz & another Vs. Abdul Ghaffar)

Dated	Order with signature of Judge

Present:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Omar Sial

Hearing of Case (Priority)

1. For hearing of Main Case
2. For order on CMA No. 299/2019 (stay)

Dated 19.02.2024

Syed Ghulam Hasnain Advocate for the Appellants

Mr. Muzammil Hussain Jalbani Advocate for Respondent

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Muhammad Shafi Siddiqui, J.- We have heard the learned counsel and perused the material available on record.

2. It appears that initially the dispute arose in respect of an amount as identified by two cheques available at pages 73 and 75 respectively, signed by one Ayaz Imtiaz son of Muhammad Imtiaz (son of the Appellant No.1). It is further recorded that the dispute was settled by virtue of a mutual agreement, however, three cheques were then executed and issued by the Appellant No.2 for the amount of Rs.150,000/- each (together Rs.4,50,000), copy of those cheques (one page) is available at page 107. Based on negotiable instruments, as those cheques were bounced, a summary suit was filed against Shahzad Imtiaz and his father Muhammad Imtiaz as well. A summary suit could be filed based on a negotiable instrument and not on the basis of a simple agreement alone; there could have been an ordinary suit against both the Appellants based on agreement, privately executed, but the Respondent chose to file a summary suit, hence, could only be based upon negotiable instrument which is available at page 107 i.e. three cheques issued by one Shahzad Imtiaz. Hence, we deem it appropriate that

the decree passed in the suit is executable against the Appellant No.2 Shahzad Imtiaz as three cheques of Appellant No.2 were bounced, and not by the Appellant No.1.

3.   With these observations and modification the appeal along with listed application is disposed of and the impugned judgment and decree is modified and executable only against the Appellant No.2.

JUDGE

JUDGE

Amjad PS