

IN THE HIGH COURT OF SINDH AT KARACHI

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

First Appeal No. 16 of 2021

Sultan Ahmed **Appellant (In person)**

vs.

Muhammad Sarfaraz Yahya & others **Respondent**

Mr. Ali Nasir Baloch, Advocate for Respondent No.1

Date of hearing : 21-03-2024

Date of judgment : 21-03-2024

JUDGMENT

OMAR SIAL, J: Mohammad Sarfaraz Yahya (the respondent No.1 herein) filed Summary Suit No. 48 of 2019 against Sultan Ahmed (the appellant herein), Saleem Ahmed and Shahid Shams (the respondent Nos.2 and 3 herein) for the recovery of an amount of Rs. 9,950,000. Separate Leave to Defend Applications were filed by each defendant. Leave was granted subject to the condition that the defendants deposit surety/security equivalent to the disputed amount. The appellant did not comply with the condition. On 07.01.2021 the learned 4th Additional District Judge, Karachi Central decreed the Suit against the appellant as well as respondents No.2 and 3.

2. We have heard the appellant in person as well as learned counsel for the respondent No.1 and perused the record. Our observations and findings are as follows.

3. The learned trial court has observed in its order that the surety/security was to be deposited by or before 23.11.2020. The amount was not deposited till 07.01.2021 even though a number of applications

(for various reasons) were moved by the appellant during the intervening period. On the fateful day i.e. 07.01.2021 too, an application for adjournment was moved by respondent no. 2. The trial court has noted that the reason given in the application was that “his counsel is busy in another court today.” It is evident that no plausible reason to seek an adjournment was given.

4. In order to do justice, we asked the appellant his reason for not complying with the condition upon which the Leave to Defend application was allowed. He was unable to provide any reason. The issuance of cheques was not denied by the appellant but he attempted to justify the issuance by saying that approximately 40 cheques were taken from him under duress by the police. He however acknowledged that neither had he initiated any legal action against the police personnel for their unlawful and illegal acts nor did he file a complaint with the police high ups.

5. Given the above, we are of the view that the appellant resorted to intentional tactics at trial with a view to delay complying with the condition upon which he was to get a leave to defend. Condition was not fulfilled within the extended time given to him. We find no reason to interfere with the impugned judgment. Appeal is dismissed.

JUDGE

JUDGE