

IN THE HIGH COURT OF SINDH, KARACHI
First Appeal No.21 of 2025
[Mian Amjad Farooq v. Syed Shahbhat Hussain Naqvi]

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Osman Ali Hadi

- 1.For hg of main case
- 2.For hg of CMA No.237/25

07.05.2025.

Syed Nadeemul Haque, advocate for appellant.
Mr. Zayyad Khan Abbasi, advocate for respondent.

J U D G M E N T

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MUHAMMAD IQBAL KALHORO J: Respondent filed a suit under Order 37 Rules 1 and 2 CPC for recovery of Rs.49,60,000/- against appellant on the basis of dishonoured cheques issued by latter in favour of former.

2. As per brief facts of the case, the parties were known to each other, for business purpose appellant obtained different loans from respondent against which he issued cheques. On one occasion, appellant also promised to give a plot to respondent in lieu of the money borrowed by him but he failed and then respondent came to know that against appellant so many FIRs of cheating have been registered. He demanded his money back but in vain; hence, he filed suit for recovery of the amount as above.

3. On being summoned, appellant filed an application seeking leave to defend the suit. The application was allowed and he was called upon to furnish a surety of Rs.2.5 million instead of the whole amount sought to be recovered from him. Yet, he failed to furnish the surety and filed an application for reduction of the amount, which was dismissed and consequently for noncompliance the application for leave to defend the suit was also dismissed. Thereafter, respondent was examined by the Court, who produced all the necessary evidence including the cheques. On evaluation of evidence and consideration of relevant law, the trial

Court has been pleased to decree the suit vide judgment and decree dated 18.01.2025 which appellant has challenged on the ground that appellant was not heard and the nature of dispute between the parties was factual one which needed evidence. The last cheque issued to respondent was on account of profit and not against the loan, hence appellant is not entitled to the same.

4. On the other hand, learned counsel for respondent has supported the impugned judgment.

5. We have considered pleadings of parties and perused material available on record. Learned counsel for appellant has failed to point out any illegality or error in the impugned judgment or any observation which shows that the suit of the respondent has been decreed not on the relevant facts but on the consideration of extraneous material. Appellant was afforded an opportunity to defend the suit subject to furnishing a surety and not the security but still he failed to do so and lost the opportunity of defending himself. In absence of appellant, the relevant evidence was led by respondent who produced dishonoured cheques, agreements etc. and examined himself under Oath. His evidence went un-rebutted and nothing in contra was produced before the Court. The learned trial Court after a proper evaluation and appreciation of such evidence decreed the suit and we do not find any circumstances justifying reversal of the said findings which are based on cogent reasons. Hence, we do not find any merit in this appeal, and dismiss it.

The appeal is accordingly disposed of in above terms along with pending application.

JUDGE

