

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

1st Appeal No.55 of 2026

Appellant: Shakil Ahmed Son of Sagheer Ahmed
through Mr. Ghulam Muhiuddin Advocate.

Respondent: Farrukh Zia Jaffari Son of Syed Zia Masroor
through Mr. Sameeullah Rind, Advocate.

Date of hearing: **19.10.2026**

Date of decision: **19.10.2026**

ORDER

Muhammad Humayon Khan J.- The appellant/defendant has filed this appeal against the judgment dated 28.04.2026 and decree dated 29.04.2026 passed by the learned VII-Additional District Judge, Hyderabad, in Summary Suit No.144 of 2024. By the impugned judgment and decree, the suit was decreed ex parte to the extent of Rs.35,00,000/- in favour of the respondent/plaintiff, while the claims for interest and sale of movable and immovable property were declined.

2. The respondent/plaintiff's case is that he advanced a loan of Rs.50,00,000/- to the appellant/defendant, of which Rs.15,00,000/- was repaid, and that the appellant issued a cheque for the remaining amount of Rs.35,00,000/-, which was dishonoured for insufficient funds. The appellant's application for leave to defend under Order XXXVII, Rule 3, CPC was dismissed on 21.07.2025. The plaintiff thereafter led evidence. On 21.04.2026, the appellant was debarred from cross-examining the plaintiff after opportunities had been afforded on earlier dates.

3. During the hearing of this appeal, learned counsel for the parties, on instructions, jointly submit that the impugned judgment and decree may be set aside and the matter remanded to the trial Court for decision afresh on merits, subject to the appellant furnishing security for the decretal amount. They further state that Rs.18,00,000/- has already been deposited before this Court pursuant to its order dated 25.09.2026, and that the appellant shall

furnish security for the entire amount of Rs.35,00,000/- before the trial Court. In view of the consent of the parties, the appeal is disposed of in the following terms:

(i) The judgment dated 28.04.2026 and decree dated 29.04.2026 are set aside by consent. The matter is remanded to the learned VII-Additional District Judge, Hyderabad, for decision afresh on merits and in accordance with law.

(ii) The amount of Rs.18,00,000/- deposited by the appellant before this Court pursuant to the order dated 25.09.2026 shall be released to him. The appellant shall withdraw the said amount within seven days of its release and, within three days of such withdrawal, furnish security for the entire decretal amount of Rs.35,00,000/- before the trial Court, to its satisfaction. In any event, the entire security shall be furnished before the trial Court within fourteen days from the date on which the amount deposited before this Court becomes available for withdrawal. Upon compliance, the trial Court shall retain the security pending final decision of the suit and shall deal with it in accordance with the final judgment and any consequential order passed thereon. In case of non-compliance within the stipulated period, the appellant's application for leave to defend shall stand dismissed, and the trial Court shall forthwith decree the suit in accordance with law, without granting any further opportunity in that regard.

(iii) The trial Court shall afford both parties a fair and adequate opportunity to lead evidence and address arguments, and shall decide the suit afresh, by a reasoned judgment, within three months from receipt of the record. The parties shall cooperate with the trial Court and shall not seek unnecessary adjournments.

4. The observations in this order are confined to the disposal of the appeal by consent and shall not affect the trial Court's independent decision on the merits of the suit.

JUDGE