

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Civil Revision Application No.186 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on C.M.A No.2587/2026
2. For hearing of main case

21.10.2026

Mr.Shabbir Hussain Hashmi, Advocate for the applicant
M/s Barrister Jawad Ahmed Qureshi and Osama Yousuf
Parhyar, Advocates files Vakalatnama on behalf of
respondents

Through this Civil Revision Application, the applicant has called in question the order dated 25.09.2026 passed by the learned V-Additional District Judge, Hyderabad, in Summary Suit No.164 of 2026. By that order, the applicant was granted leave to defend subject to furnishing solvent surety for Rs.4,60,00,000/-, being the entire suit amount, by 06.10.2026.

Learned counsel for the applicant submits that, despite finding triable issues, the trial court required surety for the entire claim without assigning reasons for that amount. The plaint acknowledges receipt of Rs.2,30,00,000/- and the condition, he submits, effectively shuts the applicant out of the defence.

Learned counsel for the respondents supports the order, submitting that the cheque was drawn on the applicant’s own account and dishonoured, an FIR under Section 489-F PPC, is pending and the amount of security was within the trial court’s discretion.

Heard learned counsel and perused the record. Order XXXVII Rule 3(2) CPC permits unconditional or conditional leave to defend. Any condition must be just, supported by reasons and proportionate to the case. Where a triable issue arises, leave should ordinarily be granted; security should not be imposed merely because the defence has yet to be proved or at a level that makes leave illusory.

The trial court recorded that “certain triable issues have been raised by the defendant”, but made no finding that the defence was frivolous or dilatory. It nevertheless required surety for the entire claim solely because the applicant had not proved payment at that stage. This effectively calls for proof of the defence before trial and is difficult to reconcile with the plaint, which acknowledges receipt of Rs.2,30,00,000/- and seeks the balance. The applicant’s earlier suit concerning the same cheque was also relevant to the amount of security. The merits remain open for determination by the trial court.

The cheque was, however, drawn on the applicant’s own account and was dishonoured. Security should therefore not be dispensed with altogether, but its amount must be reduced to keep the condition reasonable.

For the foregoing reasons, this Revision Application is **allowed** in part. The impugned order is modified: the applicant shall furnish solvent surety of Rs.1,00,00,000/- (Rupees one crore) to the satisfaction of the trial court within three weeks from the date of this order, the earlier time having expired during pendency of this revision. In the event of default, the trial court shall dismiss the application for leave to defend and thereafter pass an appropriate order in the suit on its merits, in accordance with law. Upon compliance, the trial court shall proceed with the suit expeditiously in accordance with law. The impugned order otherwise remains unchanged. C.M.A. No.2587 of 2026 stands disposed of. A copy of this order shall be communicated to the trial court.

JUDGE