

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Syed Hasan Azhar Rizvi  
Ms. Justice Musarrat Hilali  
Mr. Justice Naeem Akhtar Afghan

**Civil Petition No.760 of 2024**

[Against judgment dated 18.01.2024 passed by the Lahore High Court in RFA  
No. 66727 of 2020]

<b><i>Khizar Hayat</i></b>	<b><i>Versus</i></b>	<i>...Petitioner(s)</i>
<b><i>Malik Akhtar Mehmood</i></b>		<i>...Respondent(s)</i>

For the Petitioner(s)	:	Malik Matee Ullah, ASC
For the Respondent(s)	:	N.R
Date of Hearing	:	15.04.2024

**JUDGMENT**

**Syed Hasan Azhar Rizvi, J.** Through this petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 ("**Constitution**"), the petitioner has called in question the judgment dated 18.01.2024 ("**Impugned Judgment**") passed by the Lahore High Court ("**High Court**") whereby Regular First Appeal filed by him was dismissed.

2. Brief facts giving rise to the present case are that the respondent instituted the suit for recovery of Rs. 6,000,000/- (Rupees Sixty Lacs) against the petitioner under Order XXXVII Rule 2 of the Code of Civil Procedure, 1908 ("**CPC**") on the basis of a pro-note dated 05.01.2016 and cheque bearing No. 36990267 drawn on United Bank Limited in favour of the respondent by the petitioner.

3. In this regard a decision of Arbitrators was also rendered which confirmed the due amount payable by the petitioner. The petitioner's application for leave to defend was allowed and he filed written statement. After framing of issues and

recording of evidence, Trial Court decreed the suit in favour of respondent vide Judgment and decree dated 17.10.2020.

Being aggrieved, the petitioner filed Regular First Appeal before the High Court, that was dismissed vide impugned judgment dated 18.01.2024. Hence, this petition.

4. Learned counsel for the petitioner contends that the impugned judgment is not sustainable in the eyes of law as it suffers from non-reading and misreading of the evidence therefore the same is liable to be set aside.

5. We have heard the learned counsel for the petitioner and also perused the material available on record.

6. Record reveals that execution of pro-note is admitted by the petitioner. In the agreement dated 07.01.2016, petitioner unequivocally confirmed that the execution of the pro-note and also undertook that if arbitrators decide the matter against the him, he would have no objection. This clearly indicates that pro-note was executed against due consideration by the petitioner voluntarily. It appears that cheque alongwith the pro-note was given to arbitrators for redetermination and reconsideration of amount due and once the Arbitrators confirmed the amount of Rs. 6,000,000/- as due to the respondent from the petitioner, the pro-note was handed over back the respondent alongwith a cheque executed by the petitioner.

7. Record further indicates that respondent claimed that he is entitled to receive Rs.60,00,000/- as a result of pro-note (Exh.P1) dated 05.01.2016 which obligation has been admitted by the petitioner himself vide his agreement dated 07.01.2016 (Exh.P4) executed with the respondent.

8. It is pertinent to point out that petitioner has neither challenged the decision of the arbitrators nor the agreement for appointment of arbitrators or execution of cheque and pro-note. Moreover, perusal of the testimony of the petitioner in his examination in chief clearly indicates that he himself admitted the liability to pay and voluntarily issued pro-note and cheque.

9. There are concurrent findings by courts below, this Court does not normally go beyond such findings unless same are perverse, arbitrary, fanciful or capricious which, in our candid view, is not the position in the instant case.

10. The impugned judgment passed by the High Court is well reasoned and based on proper appreciation of all factors, factual as well as legal. Neither any misreading and non-reading nor any infirmity or illegality has been noticed from the record which could make a basis to take a view other than the High Court.

11. Consequently, this petition being devoid of merit is hereby dismissed. Leave is refused.

12. Above are reasons for our short order announced on even date.

**JUDGE**

**JUDGE**

**JUDGE**

Bench-II  
Islamabad  
15.04.2024  
APPROVED FOR REPORTING  
Paras Zafar, LC\*/