

CS No. 444/19
Nasruddin Ansari Vs. Mohd. Asraf Ansari

22.12.2023

Present: Mr. Dheeraj Kumar, Ld. Counsel for the plaintiff
along with plaintiff in person.

Mr. Abhishek Garg, Ld. Counsel for the defendant
along with defendant in person.

An application for issuing summons for judgment is
filed by Ld. Counsel for the plaintiff. Copy is supplied.

Ld. Counsel for the plaintiff submits that the present
case is a suit under Order XXXVII of CPC. However, Ld.
Predecessor of this court, inadvertently, treated the present case
as an ordinary suit on the last date of hearing. He also draws
attention of the court to the first order passed in the present case
dated 30.05.2019 by which summons under Order XXXVII CPC
were directed to be issued.

Ld. Counsel for the defendant submits that
defendant has no objection if the summons for judgment are
issued and he is granted an opportunity for filing application for
leave to defend.

Arguments are heard and record is perused. In view
of the no objection given by Ld. Counsel for the defendant, the
application of the plaintiff is allowed. Summons for judgment are
issued. Same are accepted by Ld. Counsel for the defendant.

Let application for leave to defend be filed within
the prescribed time period after supplying advance copy to the
plaintiff.

In view of the above order, the application of the defendant for setting aside order dated 24.11.2023 by which he was proceeded ex parte is dismissed as same is now infructuous.

An application under Order 7 Rule 10 of CPC for return of plaint is filed by Ld. Counsel for the defendant. Copy is supplied.

At the request of Ld. Counsel for the defendant, the application is adjourned to the next date of hearing.

To come up on 15.05.2024.

(Shirish Aggarwal)
Additional District Judge-03
Patiala House Courts, New Delhi
22.12.2023