

CS DJ 206/19

Ms. NEEMA Vs. Ms. KIRAN AND ORS.

15.04.2023

Present: Sh. Ankush Bansal, ld. counsel for plaintiff.

Sh. S Prasad, ld. counsel for D-1 and D-3.

Heard. Perused.

Arguments heard on application u/o IX Rule 7 CPC for setting aside ex-parte decree against the defendant no. 1 and 3.

It is stated by Counsel for applicant that D-1 and D-3 have never received any summons of this Hon'ble Court personally and, therefore, they could not appeared before this court on any previous dates of the present case. It is prayed that the decree passed ex-parte on 20.05.2022 against them may kindly be set aside and the present case be tried in presence of the applicant.

Per contra, it is stated by counsel for plaintiff that on 11.02.2020, defendant no.4 and 5 appeared in person and also on behalf of defendant no.1 and 3. It is further stated that summons were duly served to the defendants. It is prayed that present application is devoid of merits and liable to be dismissed.

On perusal of record, it is found that on dt. 17.09.2019, all the defendants were appeared in person along with counsel Ms. Amrita whose vakalatanama is already on record and signatures of defendant no.1 and 3 are also on the vakalatanama. After comparing the signatures of defendant no.1 and 3 on previous vakaltanama and new vakalatanama, I found that there is similarity, hence, the contention of the applicants that they never received any summon from the court is wrong and

baseless as they had appeared in person along with their counsel on dt. 17.09.2019.

Accordingly, I am of the considered opinion that despite appearance, they did not file any WS and accordingly rightly proceeded as ex-parte. Hence, **the present application is devoid of any merit and hereby dismissed with cost of Rs.5,000/- to be paid to the opposite party on NDOH.**

Put up for ex-parte PE on 14.07.2023.

(Surender Mohit Singh)
ADJ-04, North, Rohini Courts,
Delhi/15.04.2023