

**Order below Exh.3 In Summary Suit No.516 of 2024**

Appearance : Mr. M. A. Kacha, L.A. of the plaintiff.

**Coram: Mr. B. N. Patel, Chief Judge.**

- [1] The present Suit has been instituted by the plaintiff under Order-37 of the C.P.C. Learned advocate of the plaintiff has argued that the summons / notice of the suit has served to the defendant as per Exh.9 by substitute service, but the defendant has not remained present before the Hon'ble Court within stipulated time i.e, ten days. Thereafter, the plaintiff has filed an application vide Exh.15 with affidavit for getting ex-parte decree against the defendant. So in accordance with the provisions of Order-37 Rule-2(3) wherein upon service of summons the defendant must enter an appearance before the Court within ten days either in person or through its pleader from the date of service of summons and defendant has to submit his address for the service of summons / notice before the Court in accordance with Order-37 Rule-3(1) of the Civil Procedure Code. The present defendant has not complied with the above provisions.
- [2] It is pertinent to note that provisions of Order-37 has to be strictly complied and if person does not comply with Order-37 Rule-3(1) of C.P.C. then the decree shall be followed under Order-37 Rule-2(3) wherein it is provided that in default of his entering an appearance the allegations made in the plaint shall be deemed to be admitted and the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with the interest at the specified if any and such decree may be executed forthwith. To prove his case, the plaintiff has produced documentary evidence vide Mark

6/1 to 6/6, which are in consonance with the facts of the plaintiff's case. Therefore, the plaintiff is entitled to get an amount of Rs.47,739/- from the defendant. In the present suit, the plaintiff has prayed the suit claim with interest @18% p.a. but looking to the prevailing market rate of interest and Section-34 of C.P.C., the plaintiff is entitled to get interest at the rate of 6% p.a. on the aforesaid due amount from the defendant from date of suit till the realization of aforesaid amount.. Hence, the interest is not awarded on the suit amount. Hence in view of above, I pass following final order in the interest of Justice:-

**-:: ORDER ::-**

- [1] The plaintiff's suit is hereby partly allowed.
- [2] The defendant is hereby directed to pay sum of Rs.47,739/- (Rupees Forty Seven Thousand Seven Hundred Thirty Nine Only) to the plaintiff.
- [3] Parties shall bear their own cost.
- [4] Issue necessary court fee refund certificate as per Gujarat Court Fee Act in the name of the plaintiff's learned Advocate.
- [5] Decree be drawn accordingly.

Pronounced and signed in the open Court today i.e,11<sup>th</sup> Day of **March, 2026.**

**(Bipinkumar Narsinhbhai Patel)**  
Chief Judge, Code-GJ00853,  
Small Cause Court,  
Ahmedabad.