

:: Order below Ex. 1 in Special Civil Suit No. 330/2011 ::

1. Present suit is filed by the plaintiff in the year 2011. Issues are framed on dated 21/05/2014 vide Ex. 59 but thereafter, plaintiff has not filed the evidence in this matter. Sufficient time is given to the plaintiff but no any evidence is produced. As no one was remaining present notice was also issued to the plaintiff but the said notice Ex. 60 has returned with the endorsement that no such person is residing there. In this case, the plaintiff has not declared any other address during the course of proceeding. It is the duty of the party to produce his changed registered address but no such address is produced and hence, this Court has no other option to trace plaintiff.
2. Today, neither plaintiff nor his advocate is present before this Court. Ld. Adv. for the defendant too is not present before this Court. **It is pertinent to note that now a days all the case details are easily available for litigants as well as for the advocates and the person who is really interested in proceeding with the case can very well get such information.** Still, however, the plaintiff has not choosen to remain present either in person or through his advocate. hence, it would be necessary to refer provisions of Order IX Rule 3 and Order IX Rule 8 of the Code of Civil Procedure, which deal with consequence of non appearance.

Order IX Rule 3 provides that *Where neither party appears when the suit is called on for hearing, the court may make an order that the suit be dismissed.*

Order IX Rule 8 provides that *Where the defendant appears and the plaintiff does not appear when the suit is called on for hearing, the Court SHALL make an order that the suit is be dismissed, unless the defendant admits the claim.*

3. From all these facts and circumstances of the matter, it appears that the plaintiff is not interested in proceeding with the present suit. Sufficient opportunities are afforded. Considering the facts of the present matter along with the provisions of Order 17 and Order 9 Rule 3 of the Code of Civil Procedure, present suit is

requires to be dismissed and hence, following order is passed in the interest of justice.

:: Order ::

- Present suit of the plaintiff is hereby dismissed for default under Order 9 Rule 3 read with Order 17 rule 2 of C.P.Code.
- No order as to costs.

Pronounced in the open court on this 09 th day of April year 2024.

Date : 09/04/2024
Place : Ahmedabad

[Bhadresh Hasmukhlal Gandhi]
5th Addl. Senior Civil Judge,
Ahmedabad (Rural)
UIC NO. GJ00957