



SMST-S No.176/2023

Order below Ex 1

1. Plaintiff has filed the present suit against the defendant on dated 13-12-23. The notice issued to the defendant returned unserved is produced vide Exh-5. Hence from date 28-02-24 the matter is pending for production of new address and services of process to defendant. But gone through the record of the case neither plaintiff nor his Ld.Advocate remained present since long time.

2 Even today neither the plaintiff nor his Ld. Advocate appeared before the court for further proceeding and the service of summons to defendant.

3. It is necessary to refer O-9 Rule 5 Of C.P.C, it is read as under ,

Order.9 – APPEARANCE OF PARTIES AND CONSEQUENCE OF NON-APPEARANCE

Rule 5. Dismissal of suit where plaintiff after summons returned unserved, fails for (Seven days) to apply for fresh summons

2[(1) Where after a summons has been issued to the defendant, or to one of several defendants, and returned unserved the plaintiff fails, for a periods of 1[seven days] from the date of the return made to the Court by the officer ordinarily certifying to the Court returns made by the serving officers, to apply for the issue of a fresh summons the Court shall make an Order that the suit be dismissed as against such defendant, unless the plaintiff has within the said period satisfied the Court that-

4. Hence gone through the record and considering the above provision , it appears that the plaintiff has not given new address of the defendant within seven days for fresh summons on the defendant. Hence the suit is dismissed Under O-9 Rule -5 of C.P.C.

Signed and pronounced in open Court today, this 20th day of January 2025.

Date : 20.01.2025

(Ms.Smitabehen Prakashchandra Patel)

Place : Vadodara

Addl. Judge, Small Cause Court
VADODARA
U.I.C. GJ01123,