

:: ORDER BELOW EXH. 12 ::

[1].. Heard the Ld. Advocate for the plaintiff and the defendant. Perused the records of the case including the plaint, summons for judgment, leave to defend application and rejoinder affidavit filed by the plaintiff along with the documentary evidence produced by both sides.

[2].. The present plaint was filed by the plaintiff under Order 37 Rule 2 for the recovery of an amount of Rs. 1,63,920/- with future interest @ 18% P.A. from the date of filing of the above suit till the realization, against the defendants. That thereafter the defendants made an appearance and vide Exh. 7 along with the Ld. Advocate appearing on his behalf on 20/11/2021. The plaintiff thereafter filed Summons for Judgment vide Exh. 9 on 13/06/2022 and the copy of the same was received by the defendant. Thereafter on 08/12/2022, the defendant filed his leave to defend vide Exh. 12 of the record of the case. As against this, the plaintiff had filed a rejoinder reply at Exh. 15 of the record of the case.

[3].. Perused the Summons for judgment affidavit of the plaintiff and the Leave to defend application of the defendants. In brief, it is the contention of the plaintiff that the plaintiff had done the work of plumbing in the hospital of defendant but the defendant had not cleared the dues of two invoices that were issued to the defendant. Therefore the plaintiff had filed the present suit. As against the same, the defendant had filed their leave to defend contending that the contents of the plaint are false, frivolous and vexatious. It is the contention of the defendant that there is no privity of contract between the parties to present suit. It is further contended that the defendant and the plaintiff did not enter into any such agreement, that further the bills issued are not on the name of the defendant. Therefore, looking at all these submissions, the defendant submits that his leave to defend must

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be allowed. In the instant case, the defendants have raised certain triable issue and therefore keeping in mind the provisions of Order 37 of Code of Civil Procedure, 1908, the following order is passed in interest of justice:

: ORDER :

[1] This application for leave to defend is hereby granted unconditionally.

[2] The present suit shall be sent to CFC for change in category of the Suit as Regular Civil Suit for Money recovery.

[3] Parties to bear their own cost.

Date: 03/01/2025

Place: Ahmedabad

[Aditya Rajeshbhai Gor]

Code: GJ01709

10th Additional Civil Judge,
Ahmedabad (Rural).