

ORDER BELOW EXH.1
IN SUMMARY SUIT NO.1938 OF 2016

Mr. A. R. Gupta, Learned Advocate for the Plaintiff.

Defendant -Ex-parte.

Coram:-Mr.Ilyasbhai Khajmahmadbhai Jangad,Judge

- 1 Originally this suit was filed in the City Civil Court, Ahmedabad and numbered as Civil Suit No.157 of 2015. This suit came to be transferred to this court in view of the amendment in Presidency Small Causes Courts Act, 1882, which was published in Government Gazette Extraordinary, Part-IV dated 18.06.2015 raising the pecuniary jurisdiction of this court to Rs.Ten Lacs with effect from 2nd November, 2015, by its order below Exh.1 passed on 18.12.2015. Thereafter this case has been registered under the number as hereinabove given in this court.
- 2 The Plaintiff has filed the suit against the defendant for recovery of Rs.5,90,749/- with interest under Order 37 of Civil Procedure Code as summary suit.
- 3 On the institution of the suit, summons was issued to the defendant and defendant has been served through Court Bailiff vide Exh.6 dtd.05/02/2015. Though, the defendant has not appeared before the Hon'ble Court as party in person or

through any advocate. The plaintiff has filed an application vide Exh.9 for passing ex-parte decree against the defendant. As the defendant has not appeared before the Court. The plaintiff has produced documentary evidence vide list at Exh.4 which are consisting (1) Copy of bill (2) Copy of delivery slip (3) Copy of cheque (4) Copy of notice (5) Copy of books of account (6) Copy of Form-G Register of Firm.

- 4 In view of the Provision of Law, it is clear that if defendant failed to file appearance before the Court within a period of ten days from the date of service of summons upon him; the plaintiff shall entitled to decree U/o 37 rule 2(3) of Civil procedure code. As per record summons for appearance served to the defendant. Although, till today the defendant has not appeared before the Court. The plaintiff has produced documentary evidence on record. On perusing documentary evidence, the plaintiff's suit is within a period of limitation. The plaintiff has prayed for contractual rate of interest. Looking to the economical scenario, the reasonable rate of interest should be apply and if on suit claim amount 6% interest p.a. should be awarded to the plaintiff. It is just and proper in the interest of the justice, under such circumstances, I pass following order.

FINAL ORDER

- 1 The plaintiff's suit is hereby allowed.
- 2 Decree of Rs.5,90,749/- is passed in favour of the plaintiff and against the defendant with interest at the rate of 06% p.a. from the date of suit till it's

realization.

- 3 Defendant shall bear his own costs along with the plaintiff.
- 4 Decree to be drawn accordingly.

Pronounced and signed in open court today on 01st day of October, 2018.

Date:-01.10.2018. (ILYAS KHAJMAHMAADBHAI JANGAD)
Ahmedabad.

Judge
Code No.GJ00867
Small Cause Court No.4,
Ahmedabad.