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YRS / MTS / DYS

**IN THE COURT OF JUDGE
SMALL CAUSE COURT
AT VADODARA**

Summary Suit No.60/2017.

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**Exh.\_\_\_\_**

**PLAINTIFF:**

Arvinbhai Pitambardas Patel  
Aged:56-Years, Occ:Business,  
M/s.Saurasta Agro Briquetters  
Having their office at :  
3/B, Sevagram Society,  
Nr.Pragati Sahakari Bank,  
Nizampura,  
Vadodara.  
(Through its Authority Holder).

**Versus**

**DEFENDANT:**

M/s.Balaji Fuel Industries  
Vicky Dhanuka (Proprietor)  
Sinthai,Bikaner,  
Rajasthan.

**Advocates:**

Mr. Pankaj M.Jain, Ld. Advocate for the plaintiff.  
Defendant failed to enter his appearance.

**Suit for recovery of Rs.3,43,675/- with interest under O.37 of C.P.C.**

**:: J U D G M E N T ::**

1. *The plaintiff has filed this suit against defendant under the provisions of O.37 of C.P.C., for recovery of Rs.3,43,675/- with interest @ 9% p.a. from date of the suit till realisation of entire amount.*
2. *The summons for appearance through R.P.A.D vide Exh.5 is issued to the defendant. The record and proceeding shows that, it is duly served upon the defendant, wherein, the defendant asked to appear before the Court within 10 days from date of receipt of such summons. It is a fact on record that inspite of service of summons for appearance, the defendant failed to appear before the Court. Therefore, the plaintiff submitted an application U/o.37, R.2(3) of C.P.C. and claim Judgment and decree. That thereafter, the plaintiff has filed his Affidavit of Examination in Chief Exh.17, wherein, he has reiterated almost all the facts as narrated in the plaint at Exh.1 and to substantiate the plaintiff has produced relevant documentary evidence vide list Exh.19 to Exh.24 respectively. The plaintiff has filed his closing pursis vide Exh:14. The plaintiff has, claimed to pass a decree in favour of plaintiff and against the defendant as prayed for.*
3. *By production of documentary evidence, the plaintiff has proved that, the plaintiff is a Partnership firm carrying on business at the cause title of the suit and plaintiff Mr.Arvinbhai Pitambardas Patel is partner of the firm. That defendant is also doing business and therefore, the plaintiff purchased many Agro Briquettes (Bio-Coal) from the defendant. It is averred by the plaintiff that the plaintiff has given advance to the defendant for purchase of Agro Briquettes (Bio-Coal) from defendant but defendant failed to*

*supply the same and therefore, outstanding amount from defendant is Rs.3,43,675/- and same is not released by the defendant after repeated reminder. It is pertinent to note here that, due non-appearance of the defendant, the evidence adduced by the plaintiff side remained unchallenged. The provision of Sub-Rule-3 of Rule-2 of O.37 of C.P.C. provides that, the defendant shall not defend the suit, unless he enters an appearance, and 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 interest at the rate specified. Thus, even the above referred provision in no uncertain words proved the claim of plaintiff, because the defendant failed to register his appearance in the Court. Therefore, the suit of plaintiff requires to be decreed, and decreed accordingly, by passing following order.*

***:: ORDER ::***

- *The Suit of plaintiff bearing Summary Suit No.60/2017 is decreed.*
- *The plaintiff do recover an amount of Rs.3,43,675/-(Rupees Three lacs fourty three thousand six hundred seventy five only) from persons and properties of the defendant, along with interest@ 9% p.a. from date of the suit till realisation of entire decreetal amount.*
- *The defendant to bear his costs and shall pay the cost of this litigation to the plaintiff.*
- *Decree to be drawn up accordingly.*

*Signed and pronounced in the open Court on this 19th day of November, 2018.*

***Date:19/11/2018.  
Vadodara.***

***(Chaitanya Rajnikant Barot)  
Code No.GJ00352  
Judge, Small Cause Court,Vadodara.***

*njb*

