

SUMMARY SUIT NO.6024 OF 2002**ORDER BELOW EXH.1**

Coram: Mr. Arvindkumar S. Gadhavi, Judge

[1]...The present suit has been instituted by the plaintiff under Order-37 of the Code of Civil Procedure (hereinafter referred as to Civil P.C. for the sake of brevity and convenience) before the City Civil Court and then it was transferred to this court and re-numbered as above. The defendant/s had been duly served with the summons of the Court by way of RPAD. On perusal of the records it appears that, the defendant/s have failed to remain present before the Court. In accordance with the provisions of Order-37 Rule 2 (3) wherein upon service of summons the defendant must enters an appearance before the Court within ten days either in person or through its pleader from the date of service of summons and defendant has to submit his address for the service of summons/notice before the Court in accordance with Order-XXXVII R-3 (1) of Civil Procedure Code. The present defendant has not complied with the above provisions. Therefore, the defendant is liable to pay the whole amount of the suit as claimed by the plaintiff.

[2]...It is pertinent to note that provisions of Order XXXVII has to be strictly complied and if person does not comply with Order-37 Rule-3(1) of C.P.C. Than decree shall be followed under Order XXXVII Rule- 2 (3) wherein it is provided that in default of his entering an appearance the allegations made in the plaint shall be

deemed to be admitted and plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with the interest at the specified if any and such decree may be executed forthwith. In view of such legislative command and taking into consideration the plaint and documents on record, I pass the following final order in the interest of justice:

-::O R D E R::-

1. *The plaintiff's suit is hereby decreed for an amount of Rs.45,252/- against the defendants and the defendants are hereby directed to make the payment jointly and severally to the plaintiff of decretal amount with interest at the rate of 6% p.a. from the date of suit till the realization.*
2. *Defendants shall pay cost of the suit to plaintiff and bear their own cost.*
3. *Decree be drawn accordingly.*

Signed and pronounced in open Court on this 3rd August, 2018.

(Arvindkumar Shantidan Gadhavi)
Judge, [Code no.GJ00541]
Small Cause Court No.06,
Ahmedabad.