

Ej. Suit No. 307 of 2014

Order No. 06

17.08.2015

Today is fixed for exparte hearing of the suit.

Plaintiff files hazira and at the same time prefers an application praying for adjournment for exparte hearing.

Defendant entered his appearance today along with a duly filled up vokalatnama and two separate applications – (1) for taking the suit off the exparte board on the ground that the summons had not been served upon him and (2) praying for direction upon the plaintiff to serve a copy of the plaint upon him.

Copy of the petition served on the other side and received by Ld. Advocate for the plaintiff with objection.

Considering the submissions made on behalf of Ld. Advocates for both sides and keeping in view the information slip furnished on behalf of the defendant today, I am inclined to grant him one opportunity to diligently contest the suit.

Accordingly the prayer for taking the suit off the exparte board stands allowed on contest subject to imposition of cost of Rs. 500/-.

Let the suit be taken off the exparte board.

It is observed further that the summons sent to the defendant by post had been returned with the postal endorsement of “not claimed” while the summons sent by Process Server of this Court was returned unserved with the report regarding non availability of the defendant at the suit premises.

In such circumstances, it can be safely concluded that the summons of the suit was not physically delivered to the defendant and it also cannot be denied that for effectively contesting the suit the defendant shall definitely require a copy of the plaint.

In such a situation, I am inclined to allow the second petition preferred by the defendant today.

Plaintiff is hereby directed to serve a copy of the plaint to the defendant at once.

Fix 16.11.2015 for payment of cost and filing of written statement by the defendant.

Dictated and corrected by me:

Judge

Judge, 3rd Bench.