

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS.5137-5138 OF 2005

RAM AWADH PANDEY

....APPELLANT

VERSUS

PIYUSH

....RESPONDENT

O R D E R

Plaintiff-respondent herein filed a summary suit. Despite service of notice, defendant-appellant herein did not appear. Later on, he filed an application inter alia alleging that on account of illness of his wife, he had gone to Varanasi (U.P.) and therefore, did not appear in the case. The said plea was considered by the Small Causes Court and on finding that the explanation put forth by the defendant is palpably wrong, it rejected his application. Thereafter, the defendant preferred revision before the High Court of Delhi.

The High Court concurred with the finding of the Small Causes Court and while doing so, observed that despite service of summons, the defendant did not appear before the Small Causes Court. Although on the said date itself, he had appeared before the Metropolitan Magistrate and his presence was recorded on that date. In the face of the same, the plea put forth by the defendant, was rejected by the High Court also. The plea of the defendant that he had gone to Varanasi to attend to his ailing wife was also considered and in the absence of any material, this plea was not accepted both by the High Court and the Small Causes Court.

We have heard learned counsel for the parties.

We find that the finding recorded by the Small Causes Court and the High Court is on appreciation of evidence and it does not call for interference by this Court in appeal.

The appeals stand dismissed accordingly.

.....J
[Chandramauli Kr. Prasad]

.....J
[V. Gopala Gowda]

New Delhi;
April 23, 2013.

ITEM NO.101

COURT NO.11

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NOS.5137-5138 OF 2005

RAM AWADH PANDEY

Appellant (s)

VERSUS

PIYUSH

Respondent(s)

(With office report)

Date: 23/04/2013 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD
HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Appellant(s) Mr. Sanjay, Adv.
For Mr. Rameshwar Prasad Goyal, Adv.

For Respondent(s) Mr. A.L. Trehan, Adv.

Mr. Varinder Kumar Sharma, Adv. (N.P.)

UPON hearing counsel the Court made the following
O R D E R

The appeals are dismissed in terms of the signed order.

| (Sanjay Kumar) Court Master | (Indu Satija) |
| |Court Master | |

(Signed order is placed on the file)