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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: February 17, 2010
Date of Order: February 22, 2010

+ CM(M) 1446/2007

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22.02.2010

Ramesh Chander

...Petitioner

Through: Mr. Gurmit Singh Hans, Advocate

Versus

N.P. Jayanandan

...Respondent

Through: Mr. M.K. Khattar, Advocate

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. By this petition, the petitioner has assailed an order dated 22nd August 2007 passed by Additional Senior Civil Judge, Delhi whereby an application of the petitioner under Order 37 Rule 4 CPC for setting aside a decree passed under Order XXXVII CPC was dismissed.

2. The petitioner was served notice of the suit under Order XXXVII CPC by ordinary process as well as through registered post. The ordinary process came back with the report of refusal on 14th September 2006 and the AD Card came back showing receipt of summons on 19th September 2006. The petitioner did not put appearance in the Court within the stipulated period of ten days and instead after a period of more than one month, when the matter was listed before the Court, the petitioner put appearance with counsel and vakalatnama was filed. The trial court observed that there was no appearance within the stipulated period and decreed the suit.

3. In the application under Order XXXVII Rule 4 CPC, the plea taken by the petitioner is that the petitioner was not aware that he had to put appearance within ten days. He contacted the counsel and the counsel also did not advice him that he was to put appearance in ten days.

4. The summons sent to the petitioner along with copy of the plaint specifically provided that he was to put appearance before the Court within ten days failing which the suit shall be

decreed against him. Thus, the plea taken by the petitioner that he had no knowledge that he had to put appearance within ten days was rightly turned down by the trial court.

5. I find no force in this petition. The petition is hereby dismissed.

February 22, 2010
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SHIV NARAYAN DHINGRA J.