

As a result of the above, the Court is of the opinion that the defendant is liable to pay the amount of Rs. 1,80,000/- to the plaintiff with subsequent interest at 6% per annum from the date of suit till date of realization together with costs. For convenience of reference, the ranks to the parties in the trial Court will be adopted throughout the judgment. The plaintiff (respondent herein) filed suit for recovery of Rs. 1,80,000/- together with interest @ 12% per annum alleging that the plaintiff is the owner of the Boat by name 'Paradesamma' bearing V.P.No.V.P.T.589 Fishing Trawler and the same was insured with the defendant for a sum of Rs. 1,80,000/- on payment of requisite premium in installments, obtained policy bearing No.96/1/002987 for the sum insured. Thereafter, the plaintiff paid installments to the defendant and obtained receipts. While the matter stood thus on 14-12-1988 about 3AM the fishing Trawler was completely damaged in an accident and the said fact was intimated to the defendant immediately and later claimed damages quantifying at Rs. 1,80,000/- but the amount was not paid. The defendant denied the compensation to the plaintiff, by the date of accident the liability of the defendant was subsisting. Thereby the defendant is liable to pay the amount. As the defendant failed to pay the amount towards damages, the petitioner sent a registered letter dated 05-04-1991 and in turn the defendant informed on 05-04-1991 by way of letter intimating that the claim will be delivered within short time and again sent a letter dated 07-02-1991 with false and frivolous allegations. Despite the demands of the plaintiff, the defendant did not pay the claim. Hence the plaintiff filed suit for recovery of said amount. The plaintiff filed the suit as in forma pauper and pauper OP filed. The insurance company filed counter. After declaring the plaintiff as pauper, the OP was registered as suit and no written statement was filed and remained exparte. During trial, the Court recorded the evidence of PW.1 and marked Exs.A-1 to A-4. Upon hearing the arguments of the plaintiff, the trial Court passed judgment dated 14-03-96 which runs as follows: " Perused the plaint. The evidence of PW.1 and also Exs.A-1 to A-4. The plaintiff has proved her claim. Therefore, the suit is decreed as prayed for at the rate of 6% per annum from the date of suit till date of realization. The office is directed to pay court fee to the government." Aggrieved by the judgment and decree of the trial Court, the present appeal is preferred by the defendant raising several contentions, more particularly the decree and judgment of the trial Court as against order under Order XX of Code of Civil Procedure (C.P.C.) and even if the defendant remained exparte, it is the duty of the Court to pass a reasoned judgment. But the trial Court did not pass any reasoned judgment and therefore, liable to be set aside and prayed to set aside the decree and judgment. Learned counsel for the defendant while reiterating the contentions placed reliance on the judgment of Ramesh Chand Ardawatiya v. Anil Panjuwani and another judgment of C.N.Ramappa Gowda vs. C.C.Chandregowda (dead) by Lrs. And another and the judgment of Board of Trustees of Martyrs Memorial Trust and another vs. Union of India and others and on the basis of law declared in the three judgments of the Supreme Court prayed to set aside. Whereas, learned counsel for the plaintiff/respondent opposed on the ground that the plaintiff shall not be put to loss for the mistake of Court, prayed for dismissal of appeal. Considering the rival contentions and perusing the material available on record, the point for consideration is, "Whether the decree and judgment passed by the trial court be sustained"? POINT: Admittedly, the trial Court passed decree and judgment as the defendant failed to appear and remained exparte, though the defendant did not contest the matter. Still it is the duty of the Court to pronounce judgment as defined under Section 2 (9) of C.P.C. which reads as follows: ' Judgment means the statement given by the Judge of the grounds of a decree or order.' In view of the definition of judgment in Section 2 (9) of C.P.C., it is obligatory on the part of Presiding Officer of the Court to give reasons for his conclusions. But here the trial Court just perused the plaint and evidence on record and passed the decree without assigning any reasons. When the defendant did not contest the matter, the burden is not so heavy as in contested matter, but it is the duty of the plaintiff to prove his own case and the Court is bound to frame points and answer the points one by one finally leading to just conclusion. In similar situation, the Apex Court in a judgment of Ramesh Chand Ardawatiya vs. Anil Panjuwani (supra 1) in para No.33 held as follows: " But there is substance in the other limb of this submission made by the learned senior counsel for the defendant-appellant. Even if the suit proceeds exparte and in the absence of a written statement, unless the applicability of Order VIII Rule 10 of C.P.C. is attracted and the Courts acts thereunder, the necessity of proof by the plaintiff of his case to the satisfaction of the Court cannot be dispensed with. In the absence of denial averments the burden of proof on the plaintiff is not very heavy. A Prima facie proof of the relevant facts constituting the cause of action would suffice and the Court would grant the plaintiff such relief as to which he may in law be found entitled. In a case which has proceeded exparte the Court is not bound to frame issues under Order XIV and deliver the judgment on every issue as required by Order XX Rule 5. Yet the trial Court would scrutinize the available pleadings and documents, consider the evidence adduced and would do well to frame the 'points for determination' and proceed to construct the exparte judgment dealing with the points at issue one by one. Merely because the defendant is absent the Court shall not admit evidence the admissibility whereof is excluded by law nor permit its decision being influenced by irrelevant or inadmissible evidence." In the judgment of C.N.Ramappa Gowda vs. C.C.C.Chandregowda (supra 2) the Apex Court held as follows: " It is only when the Court for recorded reasons is fully satisfied that there is no fact which needs to be proved at the instance of the plaintiff in view of the deemed admission by the defendant, Court can conveniently pass a judgment and decree against the defendant who has not filed the written statement. If the Court is clearly of the view that the plaintiff's case even without any evidence is prima facie unimpeachable and the defendant's approach is clearly a dilatory tactic to delay the passing of a decree, it would be justified in appropriate cases to pass even an uncontested decree. What would be the nature of such a case ultimately will have to be left to the wisdom and just exercise of discretion by the trial Court which is seized of the trial of the suit. But, if the plaint itself indicates that there are disputed questions of fact involved in the case arising from the plaint itself giving rise to two versions, it would not be safe for the Court to record an exparte judgment without directing the plaintiff to prove the facts so as to settle the factual controversy. In that event, the exparte judgment although may appear to have decided the suit expeditiously, it ultimately gives rise to several layers of appeal after appeal which ultimately compounds the delay in finally disposing of the suit giving rise to multiplicity of proceedings which hardly promotes the case of speedy trial. The Apex Court further held as follows: " the trial Court while accepting the plea of the appellant/ plaintiff ought to have recorded reasons even if it were based on exparte evidence that the plaintiff had succeeded in proving the jointness of the suit property on the basis of which a decree of partition could be passed in his favour. But the trial Court has decreed the suit without assigning any reason how the plaintiff is entitled for half-share in the property. The same is absolutely cryptic in nature wherein the trial Court has not critically examined as to how the affidavit filed by the plaintiff in support of his plea of jointness of the family was proved on relying upon the documents without even discussing the nature thereof indicating that the suit property was a joint property." In another judgment of Board of Trustees of Martyr Memorial Trust and another vs. Union of India and others (supra 3) when similar question came before the Apex Court while dealing with judicial process can exercise power in the duties and interest to pronounce reasoned judgment by due application of mind and the Supreme Court held as follows: " Brevity in judgment writing has not lost its virtue. All long judgments or orders are not great nor brief orders are always bad. What is required of any judicial decision is due application of mind, clarity of reasoning and focused consideration. A slipshod consideration or cryptic order or decision without due reflection on the issues raised in a matter may render such decision unsustainable. Hasty adjudication must be avoided. Each and every matter that comes to the Court must be examined with the seriousness it deserves". From the law declared by Apex Court, it is clear that whether it is contested suit or un-contested suit, still it is the duty of presiding officer of the Court to pass reasoned judgment, strictly adhering to Order XX of C.P.C. and to satisfy the requirement of judgment as defined under Section 2 (9) of C.P.C. duly, if the suit is contested, the Court is required to frame issues under Order XIV Rule-1 C.P.C. but framing of issues would arise only when the defendant contested the matter by filing written statement, as one fact or law is affirmed by one party and denied by other party. In the present case, the defendant did not contest the suit. But it is the duty of the plaintiff to prove his case though not on contest, the burden is not so heavy as in contested suit. According to Order XX Rule 5 of C.P.C. in suits in which issues have been framed, the Court shall state its finding or decision. with the reasons therefore, upon each separate issue, unless the finding upon any one or more of the issue is sufficient for the decision of the suit. Thus, the court is expected to pronounce its judgment on all issues if framed. Here, no issues have been framed regarding entitlement of plaintiff's claim and the suit was not contested by the defendant by filing written statement. Even if no written statement is filed and the Court proceeded the matter exparte, still it is obligatory on the part of Presiding Officer to frame necessary points so as to afford opportunity to plaintiff to substantiate his contention and prove



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