

SUIT NO.1440 OF 2012

V/s.

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DATE : 29th SEPTEMBER, 2016

P.C.:-

2 Though the defendant was served, the defendant did not
enter appearance or file any written statement. By an order dated
8th December, 2014 it is recorded that the defendant infact refused to
accept the packet containing writ of summons and therefore, the suit
was transferred to the list of undefended suits.

3 The plaintiff has also filed an affidavit in lieu of examination in chief affirmed on 14th September, 2015. So also compilation of documents. The affidavit of evidence is taken on record and marked **Exhibit P-1** and the documents are received in evidence and marked **Exhibit P-2 collectively**. The defendant is also not present to cross examine the plaintiff. The averments contained in the plaint are not controverted.

4 At the same time, though the plaintiff has stated that the plaintiff is a person of high reputation and the allegations made by the defendant has besmirched her reputation and lowered her in the eyes of the society and that she was entitled to damages in the amount of Rs.5 crores, there is no evidence whatsoever as to how this figure of Rs.5 crores has been arrived at. The plaintiff is relying on the particulars of claim annexed to the plaint which does not have any details. Though liability could be taken as established as the defendant has not filed any written statement and the allegations of fact are not controverted, in my view, the plaintiff has to also establish the quantum. Except the bald statements in paragraphs 46 and 47 of the affidavit in evidence, there is nothing made available as to how the plaintiff is claiming Rs.5 crores. Why not Rs.5,000/- or Rs.50,000/- or Rs.5 lakhs or Rs.50 crores or any other amount?

5 Therefore, though I am, in view of the defendant not filing a written statement, accepting the plaintiff's allegations that the defendant has defamed the plaintiff, I am unable to gather myself to grant any amount claimed.

6 In the circumstances, the defendant not having controverted any of the allegations of fact contained in the plaint on defamation, I have no hesitation in declaring that the statements made in Exhibits C, E, F1, F2, G, H, I, J to M, N and P to the plaint are defamatory of the plaintiff but I am not in a position to award any sum as damages to the plaintiff.

7 The suit accordingly stands disposed.

(K.R.SHRIRAM,J)