

**SUMMONS FOR JUDGMENT NO.47 OF 2015
IN
SUMMARY SUIT NO.1115 OF 2000**

....Plaintiff

V/s.

....Defendant

— — — —

Mr. Ashutosh Kaushik a/w. Ms. Darshana Mayekar i/b. M/s. Manilal Kher Ambalal & Co. for the plaintiff.

None for the defendant.

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CORAM : K.R.SHRIRAM,J
DATE : 14th JUNE, 2016

P.C.:-

1 The defendant was served a copy of the summons for judgment and the plaint on 11th July, 2015. The defendant had appointed M.M. Patel and company, who had filed Vakalatnama for the defendant. But when an attempt to serve the summons for judgment was made, the said M.M. Patel and company did not accept the summons for judgment as the defendant had taken away the papers. The plaintiff, therefore, served the summons for judgment directly upon the defendant and as per the affidavit of service it was served on 11th July, 2015.

2 The counsel for the plaintiff states that they have filed an affidavit in lieu of examination in chief of one Ajit Bhatt affirmed on 28th March, 2016. The same is taken on record and marked **Exhibit P-1**. The plaintiff has also filed a compilation of documents, which is taken on record and marked **Exhibit P-2** collectively. In Exhibit P-1 the plaintiff has explained as to why they should be permitted to lead secondary evidence. The explanation in Exhibit P-1 for leading secondary evidence is accepted.

3 The defendant despite service has failed and neglected to file affidavit in reply or an application for leave to defend. Therefore, as provided under Order 37, Rule 3, Sub-Rule 6, the plaintiff is entitled to judgment forthwith.

4 The suit accordingly stands decreed. Decree be drawn up accordingly.

5 The summons for judgment also stands disposed so also the chamber summons no.387 of 2016 which is taken out on behalf of the plaintiff.

6 The counsel for the plaintiff seeks leave to take back the original documents filed against filing of photocopies, certified as true copy by the advocate on record for the plaintiff.

7 The Prothonotary and Senior Master is directed to return the original documents filed by the plaintiff upon being satisfied that the same are being substituted with the photocopies certified as true copy by the advocate on record for the plaintiff.

(K.R.SHRIRAM,J)