

HON'BLE SRI JUSTICE S.V.BHATT

Civil Revision Petition Nos.2180 and 2181 of 2011

Common Order:

Heard Mr. A. Sanjeev Kumar for the revision petitioner and Mr. Hari Kishan for the respondent.

The petitioner is same in both the Civil Revision Petitions. Respondents are different. The Civil Revision Petitions are directed against the order refusing to set aside the ex-parte order dated 10.2.2011. The defendant filed application for setting aside the ex-parte order dated 10.2.2011. The plaintiff/respondent herein reported no objection. The trial Court, by referring to Order 9 Rule 7 C.P.C., namely that, a party has to approach the Court on or before the next adjournment from the date of impugned order, held that the application ought to have been moved on or before 11.3.2011, but the petition was filed on 7.4.2011 beyond the time.

I have perused the affidavit and it is a case where the defendant was set ex-parte, but no ex-parte decree was passed. The reference to Order 9 Rule 7 C.P.C., having regard to what is stated in the affidavit, which remained un-contested, the finding recorded by the trial Court is unsustainable. The findings in the orders under revision are set aside. Respective applications, I.A. Nos. 175 of 2011 in O.S. No. 108 of 2010 and I.A. No. 174 of 2011 in O.S. No. 107 of 2010 are allowed. The trial Court endeavours to dispose of the Suit positively within two months from the date of receipt of a copy of this order.

The Civil Revision Petitions are, accordingly, allowed.

Consequently, pending miscellaneous applications shall also stand closed. No costs.

S.V.BHATT, J

Date: 4<sup>th</sup> October, 2018

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