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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RFA 435/2017

GANGA RAM SHARMA Appellant

Through: None.
versus

VISHWA NATH SHARMA Respondent

Through: Mr. K.K.Malhotra, Adv.
(9811764624)

+ RFA 747/2018

VISHWA NATH SHARMA Appellant

Through: Mr. K.K.Malhotra, Adv.
versus

GANGA RAM Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **05.09.2018**

RFA 435/2017

1. No one appears for the appellant. By the subject RFA the impugned judgment of the Trial Court dated 15.9.2016 was challenged whereby the suit filed by the respondent/plaintiff under Order 37 CPC for recovery of Rs.14 lacs on the basis of dishonoured cheques was decreed by dismissing the leave to defend application filed by the appellant/defendant.

RFA 435/2017

page 1 of 4

2. At the stage of issuing notice in this appeal on 28.4.2017, it was ordered that there shall be stay of the impugned judgment and decree on the appellant depositing the decretal amount in this Court. On account of the decretal amount not being deposited the application for stay filed by the appellant/defendant being CM No.15988/2017 was dismissed vide order dated 22.1.2018. Today, no one appears for the appellant although it is 3.07 PM.

3. In fact, the appellant/defendant is the respondent in RFA 747/2018 which has been filed by the respondent/plaintiff seeking future interest which was denied by the impugned judgment, and the appellant herein who is the respondent in the said appeal, also has not appeared in the said RFA 747/2018 which is listed today at item no. 40 and was passed over on account of non-appearance of the respondent/plaintiff in that appeal and who is the appellant herein.

4. In view of the above, this appeal is dismissed in default and for non-prosecution.

5. Let no application for recall/restoration of this order be entertained by the Registry of this Court unless costs of Rs.25,000/- are first

paid to the respondent/plaintiff.

RFA 747/2018

1. Appellant is the plaintiff and by the present appeal the appellant impugns the judgment of the Trial Court dated 15.9.2016 to the extent that trial court has not granted future interest after passing of the money decree against the respondent/defendant.

2. In my opinion, once the leave to defend application was dismissed and the money recovery suit filed by the appellant/plaintiff was decreed, and the appellant/plaintiff has been granted *pendente lite* interest at 6% per annum, there is no reason, in view of Section 34 CPC, that the appellant/plaintiff should not be allowed interest at the same rate from the date of decree till the payment by the respondent/defendant of the due amount.

3. This appeal is allowed and it is ordered that the appellant/plaintiff will also be entitled to future interest after passing of the impugned judgment and decree dated 15.9.2016 at 6% per annum, till payment of the decretal amount.

4. Appeal is accordingly allowed and disposed of. Decree sheet be prepared.

VALMIKI J. MEHTA, J

SEPTEMBER 05, 2018

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