

THE HON'BLE SMT JUSTICE P.SREE SUDHA

APPEAL SUIT No. 42 of 2005

ORDER

This appeal is filed against the docket order dated 18.11.2004 passed in O.S. No.1 of 2004 passed by the Sub – Divisional Magistrate (Mobile Court) at Badrachalam.

2. The docket order dated 18.11.2004 reads as:

“Both parties found absent. Defendant failed to file Written Statement Suit decreed in favour of plaintiff”.

3. Admittedly, O.S. No.1 of 2004 is filed by the respondent herein seeking perpetual injunction, but the trial Court without recording any evidence only on the ground that the defendant failed to file Written Statement decreed the suit in favour of the plaintiff. Therefore, the order of the trial Court is patently illegal and it is a non-speaking order and it is liable to be set aside.

4. Accordingly, appeal is allowed setting aside the order of the trial Court in O.S. No.1 of 2004, dated 18.11.2004, with a specific direction to the trial Court to record evidence of both sides and dispose of the suit on merits within 6 months from receipt of order by duly giving opportunity to both sides. No costs.

Pending Miscellaneous applications, if any, stand closed.

P.SREE SUDHA JUSTICE

Dt:08.11.2022

MNV/PRV

THE HONOURABLE SMT. JUSTICE P. SREE SUDHA

APPEAL SUIT No. 42 of 2005

Date: 07.11.2022

MNV/PRV