



CIVIL

Procedural pitfalls: An Analysis of improper Summons service in M/S Trois Corporation HK Ltd v. M/s National Ventures Pvt Limited

AUTHOR Zoheb Khatri, Pooja Parameshwar

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Abstract:

In the case of M/s Trois Corporation HK Ltd v. M/s National Ventures Private Limited, the Hon'ble Supreme Court grappled with the intricacies of procedural fairness and adherence to legal requirements in civil litigation. The order is arising from an *ex parte* decree issued by the High Court of Judicature at Madras against M/s Trois Corporation HK Ltd (**"the Appellant"**), the case underscores the critical importance of proper service of summons and procedural regularity in safeguarding the integrity of judicial proceedings.

Introduction:

The Hon'ble Supreme Court rendered a significant judgment in a Civil Appeal arising from SLP (C) Nos. 4012-4013 of 2024, between the Appellant and M/s National Ventures Private Limited (**"the Respondent"**). The case originated from an *ex parte* decree issued against the Appellant by the High Court of Judicature at Madras. The Appellant challenged the decree alleging improper service of summons and procedural irregularities. The legal issue revolved around the interpretation of procedural rules governing the service of summons on Defendants residing outside the Hon'ble Court's jurisdiction. The Hon'ble Court's decision addressed the necessity of proper service of summons and the proportionality of remedies in setting aside *ex parte* decrees.

Facts Of The Case:

In the present case, the dispute originated from a legal action initiated by the Respondent against the Appellant before the High Court of Judicature at Madras. The Respondent filed a suit seeking to recover a substantial sum of money from the Appellant. Initially, the Appellant appeared before the Court during the early stages of the proceedings. However, the complications arose due to alleged deficiencies in the service of summons, a critical procedural step in civil litigation. Despite the Appellant's initial appearance and subsequent proceedings were plagued by irregularities in the service of legal notifications, particularly regarding summoning the Appellant to court to respond to the claims made against them.

As a consequence of these procedural lapses, the High Court of Madras issued an *ex parte* decree against the Appellant. An *ex parte* decree is a judgment passed in favour of one party in a case where the other party does not appear in court to contest the claims against them. In this case, the Appellant was not properly notified or served with a summons, leading to their absence during the proceedings and the subsequent issuance of the decree in favour of the Respondent.

The crux of the dispute revolves around the adequacy of the summons service and whether the procedural irregularities warrant the setting aside of the *ex parte* decree. The Appellant challenged the validity of the decree, arguing that the failure to ensure proper service of summons violated their right to due process and fair opportunity to present their defence. These factual intricacies set the stage for a legal battle that ultimately reached the Hon'ble Supreme Court, seeking clarification on the procedural requirements and principles of fairness governing civil litigation, especially concerning the service of the summons and the consequences of *ex parte* judgments.

Decision Of The Supreme Court

In its decision, the Hon'ble Supreme Court carefully examined the procedural irregularities surrounding the issuance of the *ex parte* decree against the Appellant in the case of M/s Trois Corporation HK Ltd v. M/s National Ventures Pvt Limited. The Court focused on the central issue of improper service of summons, a critical procedural requirement in civil litigation, and its implications for the fairness and integrity of judicial proceedings. The Court concurred with the Appellant's contention that the *ex parte* decree was unjustly obtained due to irregularities in summons service.

It emphasized the fundamental importance of due process and fair notice in ensuring the parties' right to be heard and present their defence. The failure to properly notify the Appellant of the legal proceedings deprived them of this fundamental right, leading to the issuance of a decree without affording them a fair opportunity to contest the claims made against them. Furthermore, the Court scrutinized the proportionality of the remedy imposed by the High Court, which required the Appellant to deposit 75% of the suit claim as a condition for setting aside the *ex parte* decree. The Court found this requirement disproportionate and unjust, emphasizing that remedies in such cases should be equitable and commensurate with the gravity of the procedural lapse. Instead, the Hon'ble Court ordered the Appellant to deposit costs, a more balanced and equitable remedy that serves the

interests of justice without imposing undue financial burden.

By rectifying the imbalances resulting from improper summons service and disproportionate remedies, the Supreme Court reaffirmed the principle that procedural fairness must be upheld to maintain the integrity and legitimacy of judicial outcomes. The decision underscores the Court's commitment to safeguarding the rights of litigants and ensuring that justice is not only served but also perceived to be served.

Conclusion:

In the present case, the ruling is a pivotal reminder of the critical importance of procedural regularity and fairness in civil litigation. By rectifying the imbalances resulting from improper summons service and disproportionate remedies, the Court ensures that justice is not only served but also perceived to be served. This judgment sets a significant precedent highlighting the imperative of adherence to legal requirements and equitable remedies in safeguarding the integrity of judicial processes and upholding the principles of fairness and justice.