

In the Court of the Sub Judge-II, Benipur
Present:- Sri Pranav Kumar Bharti

Title Suit No.-43 of 2012, Registration No.-1787/14
Baidhnath Mallah & others vs. Gangai Mukhiya & others

23-09-2022

Case is called out and record is produced before me. Both plaintiff and defendants are in attendance through their learned counsels. Perused the case record. On perusal of the case record, it appears to the Court that this instant suit has been pending for order on petition dated-02.03.2022 on behalf of the plaintiff. In this petition, it has been submitted that in this case Rs.-700/- impose as cost on plaintiff. The plaintiff is laborer and very poor fellow and he earns his livelihood by doing labour. Therefore, he prayed that your honour graciously be pleased to condone the cost of Rs.- 700/- imposed on the plaintiff in the interest of justice.

A rejoinder has been filed on behalf of the defendants on dated-15.03.2022. In this petition, it has been submitted that petition dated-02.03.2022 is not maintainable. The plaintiff is a poor fellow and earns his livelihood by doing labour. He knowingly and willfully abstained himself from his duty and cost imposed on the plaintiff is just. Therefore, this petition is fit to be rejected with cost.

Heard the learned counsel of the plaintiff and defendants and perused the case record. On hearing and perusal of the case record, it appears that after settlement of issues, altogether five witnesses along with documentary evidence have been adduced on behalf of the plaintiff till 07.02.2021. It further appears that time petition of the plaintiff was allowed with cost of Rs.-500/- on 03.03.2020. but no evidence has been adduced thereafter, plaintiff evidence was closed on 18.03.2021. On perusal of the case record, it further appears that on 18.03.2021 neither plaintiff nor defendant was in attendance. But when plaintiff evidence was closed, then this petition was filed on same day. It further appears that petition dated- 18.03.2021 was allowed with cost of Rs- 200/- on 15.12.2021 and record has been fixed for plaintiff evidence. But instead of adducing evidence, the instant petition for condoning the cost of Rs- 700/- has been filed on 02.03.2022 and after hearing the same is fixed for order.

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It further appears that plaintiff has to adduce only formal witnesses. This plaintiff is poor fellow as admitted by the defendant, in the scenario it is just and proper to condone the cost Rs- 500/- imposed upon him on 03.03.2020. But plaintiff has to deposit the cost Rs- 200/- which was imposed upon him on 15.12.2021.

Considering the fact and circumstances as discussed above, the Court is inclined with the submission of the learned counsel of the plaintiff and thus petition dated-02.03.2022 filed on behalf of the plaintiff is partially allowed in the interest of justice with further direction to conclude evidence within three dates. Thus, petition dated- 02.03.2022 filed on behalf of plaintiff is disposed of as accordingly. Fixing on~~19-10-22~~ for plaintiff evidence.

Dictated

Sub Judge, II