

09.09.2025

Present: Mr. Shekhar Sharma, Ld. Proxy Counsel for the plaintiff
alongwith plaintiff in person.

Mr. S.K. Sharma and Mr. Jai Yadav, Ld. Proxy Counsels for
the defendant.

Application for waiver of cost is filed by Ld. Proxy Counsel
for the plaintiff. Copy is supplied.

Application is taken up for consideration.

On the last date of hearing, Mr. Shekhar Sharma, Advocate
appeared on behalf of the plaintiff through VC and requested for
adjournment on the ground that he is in a personal difficulty.

The Court perused the record and noted that several
adjournments had already been granted to the plaintiff. It further noted
that on 28.03.2025, last opportunity was granted to the plaintiff for
leading evidence.

It was observed that details of personal difficulty have not
been disclosed and adjournment cannot be granted merely on the asking.

Having made the above observations, the Court still took a
lenient view and acceded to the request for adjournment, though subject
to payment of cost of Rs.5,000/- to be paid to the defendant.

Application for waiver of cost has been filed under the signatures of Mr. Alok Kumar Pandey, Advocate. He is stated to be the main counsel for the plaintiff.

It is stated in the application that on the last date of hearing, there was a bereavement in the family of the plaintiff due to which the plaintiff could not appear. It is stated that the Proxy Counsel for the plaintiff appeared on the last date of hearing and informed the Court about the personal difficulty faced by the plaintiff. It is stated that the plaintiff had always diligently pursued the present case.

It is pointed out that on 27.05.2025, the case was adjourned due to the defendant.

It is stated that imposition of cost has caused grave inconvenience and hardship to the plaintiff. On these grounds, it is prayed that cost imposed on the last date of hearing be waived.

Application is opposed by Ld. Counsel for defendant.

Arguments are heard and the record is perused.

Application is not accompanied with any supporting affidavit. Documents in support of the assertion that there was a demise in the family of the plaintiff have also not been filed. The relationship that the plaintiff had with the deceased has also not been disclosed. Date of demise has also not been mentioned.

It is incorrectly stated in the application that the Proxy Counsel who appeared for the plaintiff informed the Court about the personal difficulty faced by the plaintiff. The counsel who appeared for the plaintiff had stated that “he is in some personal difficulty”.

The Court was never informed that there is demise in the family of the plaintiff.

It is also incorrectly stated in the application that the plaintiff has been diligently pursuing the present case. If that was so, on 28.03.2025, last opportunity would not have been granted to the plaintiff for leading evidence.

There is no gainsaying the fact that on 27.05.2025, the case was adjourned at the behest of the defendant. However, that does not justify the plaintiff taking adjournment on vague grounds. It is pertinent to note that on 27.05.2025 when adjournment was sought on behalf of the defendant, the request for adjournment was not opposed and this has been specifically noted in the said order. The request for adjournment may not have been opposed since the plaintiff herself was not present for recording of her evidence.

It has not been disclosed in the application as to how plaintiff is facing grave inconvenience and hardship due to the imposition of cost.

Cost of Rs.5,000/- imposed by the Court is only compensatory and not punitive. The Court is of the opinion that when a case is adjourned, the party at whose request matter is adjourned should compensate the opposite party in monetary terms for causing the adjournment, irrespective of how bonafide are the reasons for seeking adjournment.

For the above reasons, the application of the plaintiff for waiver of cost is dismissed.

At this stage, Ld. Proxy Counsel for the plaintiff submits that cost of Rs.5,000/- has been paid to the defendant by online mode.

Examination-in-chief of the plaintiff is recorded.

Ld. Proxy Counsels for the defendant submit that Ld. Main Counsel has viral fever and is therefore, unable to appear before the Court to cross-examine the plaintiff. They request for an adjournment to cross-examine the plaintiff. Request is not opposed.

Cross-examination is deferred.

To come up for the same on 25.10.2025.

(Shirish Aggarwal)
District Judge-03
East District, KKD Courts,
Delhi, 09.09.2025