

**In The Court of Virender Kumar Goyal
Additional District Judge-01 (East)
Karkardooma Courts, Delhi**

S No.471/16/13 (Old S.No.148/15/13)

In the matter of :-

Smt. Suchin Rana

.....Plaintiff

Versus

Smt. Sudha Singh

.....Defendant

ORDER

21.01.2016

1. Vide this order I shall dispose of an application U/o 18 rule 17 r/w/s 151 CPC, filed by the defendant for seeking permission to cross examine the plaintiff's witnesses and also for recalling the order dated 20.10.2015.
2. Brief facts of the case are that the plaintiff has filed the present suit for possession and injunction against the defendant.
3. It is averred in the application under consideration that defendant had filed a suit bearing CS No.70/15 titled as Sudha Singh v. Shakuntala & Ors., which is pending before the court of Sh. Ashish Gupta, Ld. CJ, KKD Courts, Delhi, wherein the plaintiff has also been impleaded as defendant No.4 in that suit, which was sent to the Mediation Centre, KKD for 09.09.2015 and is still pending there. The suit property of this suit is also subject matter of mediation proceedings and this fact was not clearly stated by the proxy counsel, who appeared before the court on 20.10.2015. Sh. Amit Sharma, counsel for the defendant had not appeared before the court on 20.10.2015, as

he was ill, who sent a proxy counsel to address the court in this regard at about 12.00 noon. Proxy counsel called the defendant and the matter was pending for 02.00 PM and on the same day at 02.00 PM defendant appeared before the court and requested for adjournment of the case as her counsel was not available. Three witnesses were present on behalf of plaintiff and same were to be cross examined by the counsel for the defendant, who had not appeared before the court on 20.10.2015 and opportunity to cross examine these three witnesses were closed. Defendant is helpless, being widow lady and is not having sufficient source for payment of cost. Cross examination of plaintiff's witnesses are very much necessary and if same is not granted, then, defendant will suffer an irreparable loss and injury, which cannot be compensated in terms of money and prayed for granting an opportunity to the defendant to cross examine the plaintiff's witnesses and also for recalling the order dated 20.10.2015.

4. Reply to the said application has not been filed on behalf of the plaintiff.
5. I have heard the ld. counsels for the parties and perused the record.
6. On 01.09.2015 three PWS were examined and their cross was deferred subject to cost of Rs.2000/- each. On the next date 20.10.2015 only part cost of Rs.2000/- were paid and on that day since none appeared on behalf of defendant till 2.30 PM,

hence, nil opportunity was given. It is claimed in the application that Id. Counsel for defendant was ill on 20.10.2015 and proxy counsel was sent to sought adjournment. So, the only ground mentioned in the application is that Id. Counsel for the defendant was ill. The application is not supported with the affidavit or medical certificate of the Id. Counsel. However, considering the facts and circumstances and the fact that in case of non-cross-examination, defendant will suffer loss and injury, the application is allowed at the cost of the defendant. PW1,2&3 be called for cross examination subject to cost of Rs.2500/- each. Application stands disposed off.

Announced in the open
Court on 21.01.2016

(Virender Kumar Goyal)
Additional District Judge-01
(East)/KKD/Delhi / 21.01.16