

19.10.2023

Pr. Plaintiff in person.

None for defendant on call at 10.56am.

There are two applications pending on behalf of the defendant, moved U/o 18 rule 17 CPC and another U/o 7 rule 14 CPC, effectively praying, in both the applications, for an opportunity to the defendant for leading her evidence by placing on record the certain email communications, but no such emails are being found by me on record, at this stage, Sh. Kunal Raheja, Ld. Counsel for the defendant appears and he points out five numbers of communications as those emails, sought to be placed on record. Defendant is directed to annex a list of documents with copy to the plaintiff immediately against receipt.

Heard arguments on both the applications by Sh. Raheja, plaintiff, on the other hand, states that his counsel Mr. Himanshu Gupta is held up in Hon'ble High Court of Delhi, however, his submission is that these documents are irrelevant for the purposes of adjudication of the present dispute, as they pertain to the year 2015 and the present defendant had a remedy to go in appeal in accordance with the Rules and Regulations extant in HPCL, a Public Sector Undertaking, against the order of exoneration, made in favour of the plaintiff by the Committee, constituted to look into his alleged misconduct. Put up at 4.00pm for orders.

(Sanatan Prasad)
Addl. District Judge-02 (East)
Karkardooma Courts/19.10.2023

4.00pm.

Pr. None.

It appears that certain documents were filed on behalf of the defendant on 30.05.2022, in the matter, but without any list annexed thereto. Ld. Counsel for the defendant has identified those documents and also has annexed a list thereto. It further appears that the affidavit of DW/defendant, Smt. Asha Rani, was filed on 15.09.2021, and matter was being listed for defendant's evidence for next three dates of hearings, i.e., 25.02.2022; 25.04.2022; and 01.06.2022, on which date none had appeared for and on behalf of the defendant even on second call, at about 11.00am, and thereupon, DE was ordered to be closed, while adjourning the matter for final arguments on 22.08.2022, though, at 11.50am, Ld. Counsel, Sh. Raheja, who has filed vakalatnama on behalf of counsel for defendant on the previous date of hearing, i.e., 25.04.2022, had appeared and submitted that in the interregnum, an application under Order VII, Rule 14, CPC has been filed on behalf of the defendant and it appears that replies have been filed to both the applications.

Sh. Raheja has argued that the opportunity should be allowed to the defendant to lead her evidence, more so, when her affidavit was already on record, as early as on 15.09.2021. He further submits that the defendant, on the one hand, was tortured by the plaintiff, due to sexual harassment met to her and, on the other, now, being made to suffer the present unnecessary litigation and has to contest the bogus suit. His further submission is that the plaintiff, due to his high ranking position in the public sector undertaking, managed the outcome of the inquiry,

held on the complaint of the defendant, and now, the documents, being annexed with list today and filed in the Court on 30.05.2022 are vital materials to disprove the case of the plaintiff and afford a proper defence to the defendant and he seeks an opportunity, in right earnest for recalling the order, dated 01.06.2022, and also taking on record the documents annexed with the list. The plaintiff, present, has stoutly opposed both the applications and it appears that arguments were already heard from both the sides on 24.07.2023, by this Court.

I have carefully considered the matter and am convinced that the scope of Order XVIII Rule 17, CPC is very limited and an application under this provision by a party is not even competent, inasmuch as, the provision vests the Court with the power to recall any witness, who has been examined and may subject to the law of evidence for the time being in force put such questions to her/him as the Court thinks fit. It has, now, been trite law that the provision cannot be utilized for re-examination of any witness to fill lacuna in case and it is merely for the convenience of the Court and as a tool to boost up the cause of justice and also to meet the ends of justice or for clarification on any vital aspect of the matter, and viewed in this perspective also and keeping in view the facts that the written statement has been filed by the defendant on 23.10.2017, and issues were framed, as early as on 17.01.2018 and further plaintiff's evidence was closed in the matter on 21.11.2019, and also, even the costs of Rs.2,000/- was imposed on the defendant, while, allowing the earlier application, under the provision of Order XVIII, Rule 17, CPC, moved for recalling the PW1 and PW2 and a further cost of Rs.2,500/- was also imposed on the defendant,

vide order, dated 11.02.2020, I find no justification for allowing any further opportunity to the defendant, for recalling order, dated 01.06.2022, and also taking on record the documents annexed with the list, today.

Both the applications deserve dismissal, and they are dismissed, accordingly.

Be put up for final arguments on 05.02.2024. Spare copy of the list, annexed today, may be collected by the plaintiff against acknowledgement.

(Sanatan Prasad)
Addl. District Judge-02 (East)
Karkardooma Courts/19.10.2023