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CS No. 1658/16

LALMAN Vs. SMT.PHOOL KUMARI

12.02.2025

Present : Sh. K. K. Mavai and Sh. Mayank Sharma, Ld.
Counsel for the plaintiff.
Sh. Kamal Kishore, Ld. Counsel for the LR's of
deceased defendant no. 1 and for defendants
no. 2 and 3 alongwith defendants no. 2 and 3.

Reply to the application defendants no. 2 and 3
under Order XXXIX Rule 1 and 2 r/w Section 151 CPC is filed
on behalf of the plaintiff. Copy supplied.

Evidence by way of affidavit of DW-1/ Sh. Ashok
Kumar (defendant no. 2) and DW-2/ Sh. Budh Prakash
(defendant no. 3) are filed. Copy supplied.

Ld. counsel for LR's of deceased defendant no. 1 and
for defendants no. 2 and 3 submits that documents i.e. reply of
legal notice dated 09.04.2013 and postal receipts are mentioned
in the list of documents filed alongwith the written statement,
however, same are not found in the judicial record. Today, copy
of the said documents is filed and it is prayed that the said
documents be taken on record.

Ld. counsel for plaintiff opposes the prayer of
defendants and submits that reply of legal notice is also present
in his case file but as the case was earlier handled by some other
counsel at the time of filing of the suit and therefore, he cannot
state as what stage said documents were supplied to the plaintiff.

Submissions heard. Record perused.

It is seen that documents has been mentioned in the list of documents. It is settled law that merely taking documents on record, does not amount either of proof or admission. Further, no prejudice shall be caused to the plaintiff, if the said documents are taken on record. The plaintiff shall have ample opportunity to cross examine the defendant witness on the said documents. **In view of this, abovesaid documents are taken on record.**

DW-1/ Sh. Ashok Kumar is examined and partly cross-examined. His further cross-examination is deferred for the reason mentioned in the testimony.

DW-2/ Sh. Budh Prakash is examined in chief. His cross-examination is deferred for the reason mentioned in the testimony.

Put up for further cross-examination of DW-1 and cross-examination of DW-2/ arguments on application under Order XXXIX Rule 1 and 2 r/w Section 151 CPC on **27.03.2025.**

(SOMITRA KUMAR)
DJ-06, EAST/ KKD COURTS
DELHI/12.02.2025 ^(R)