

CS 364/21
GURDEEP SINGH Vs. RAJU SINDHI

31.01.2025

Present: Sh. Durgesh Pal Ld. Counsel for plaintiff.
Sh. Chirag Vohra and Sh. Vikas Ld. Counsels for defendant.

List of witnesses filed. Copy supplied.

An application u/o 18 Rule 17 CPC along-with medical certificate for setting aside the order dt. 08.01.2025 has been filed on behalf of defendants. Copy supplied.

It is submitted in the application that by order dt. 08.01.2025, the right of the defendant to lead evidence was closed. It is further submitted that on the said date, defendant no.2 got viral fever and weakness and as defendant no.1 was taking care of defendant no.2, so he could not contact to their counsel as defendant no.2 was under continuous treatment and bed rest from 05.01.2025 to 11.01.2025. It is further submitted that non presence of defendant no.1 & 2 was not willful and no prejudice shall be caused to other side if the present application is allowed. Thus, it is prayed to allow the present application thereby allowing the defendants to lead evidence.

Ld. Counsel for plaintiff vehemently opposed the application and prayed for dismissal of the application with cost.

Heard. Perused.

In view of the submission made and the reasons explained in the application and the fact that the procedural violations may not cause any prejudice to other side and also that courts must lean towards substantial justice rather than relying upon procedural or technical violations. I feel that the matter should be taken up on merits. Hence, I feel it appropriate to allow the application. Accordingly, application 18 Rule 17 CPC for leading defence evidence is hereby allowed.

Application is disposed off accordingly.

Affidavit of witnesses be supplied in advance to the opposite party.

Put up for D.E. on 19.02.2025.

Both the defendants/witnesses are directed to remain present for their cross examination on the next date of hearing.

(Pooja Jain)
District Judge-03/NB
East/KKD Courts/Delhi
31.01.2025