

**IN THE COURT OF MS. MANU VEDWAN,
ADDITIONAL DISTRICT JUDGE-2, NORTH EAST
DISTRICT, KARKARDOOMA COURTS, DELHI**

CS No. 83/2016

Vandana Srivastava

....Plaintiff

Versus

Neetu Jain

.... Defendant

08.04.2024

**ORDER ON APPLICATION UNDER ORDER XVIII RULE 2
READ WITH SECTIONS 114 & 151 MOVED ON BEHALF OF
PLAINTIFF.**

1. Vide this order, I shall dispose of application moved by plaintiff for correction/modification of the order dated 10.08.2023 passed allowing the application U/o XVIII Rule 2 r/w Sections 114 & 151 CPC filed by the defendant no. 1 U/s 151 of CPC.

2. It is stated in the abovesaid application by the plaintiff that on 10.08.2023, Learned Court has passed the order on the application of the defendant number 1 filed U/o 18 Rule 2 r/w Sec. 114 & 151 Code of Civil Procedure, in which it is noted down that in light of no objection of the plaintiff defendant no. 1 is at liberty to file the affidavit of evidence at an appropriate stage. It is stated that some

confusion has engulfed the court while, passing that order as plaintiff has never given no objection to that particular application of the defendant qua which order was passed. It is further stated that plaintiff though had given no objection to the other application of the defendant for filing of the documents which was also pending and disposed off alongwith the aforesaid application. It is stated that plaintiff had already filed the reply to this particular application of the defendant number 1 and there is no question of no objection given by the plaintiff. It is therefore requested that the order dated 10.08.2023 be modified to the extent to delete the words that plaintiff has no objection, otherwise, it would prejudice the case of the plaintiff.

3. On the other hand, Ld. Counsel for defendant number 1 specifically denied the contentions raised by the plaintiff through her present application and requested that the application be dismissed. It is stated by the defendant that in the garb of present application plaintiff seeking the review of the order dated 10.08.2023. It is further stated that in light of no error apparent on record the review can't be allowed. It is further stated that plaintiff can't be permitted to file an appeal in light of the following judgments that is AIR 1964 SC 1372 (*Thungbhadra Industries limited v. Government of Andhra Pradesh*), 2013 (8) SCC 320 (*Kamlesh Verma v. Mayawati*), 2013 (8) SCC 337 (*Union of India v. Sandur Manganese & Iron Ores limited*) and 2022 SCC Online 470 (Del) (*Koninklijke Philips NV v. Vivo Mobile Communication Co*).

It is further stated that application is not supported with affidavit of concerned relevant person. It is stated that plaintiff has no right to agitate against the contents of the present order. It is therefore requested that the application of the plaintiff be dismissed.

4. During the course of oral submissions, once against it is submitted by the plaintiff that there are multiple cases pending between the parties and therefore plaintiff can't give no objection to the defendant number 1 to file the fresh affidavit of evidence, as defendant number 1 may improve his evidence accordingly. Same is strongly objected by the Ld. Counsel for defendant number 1 stating that the application of the plaintiff is not maintainable in the eyes of the law.

5. I have heard the arguments at length advanced by both the parties. Concerned application as well as complete case file perused carefully. All the judgments relied upon by the defendant number 1 also perused carefully. They seem not be relevant in present facts and circumstances.

6. Now, as, the present/instant application of the plaintiff is accompanied with her affidavit tn these circumstances, it seems reasonable in the overall scenario that both the parties be freshly heard on the application of the defendant number 1 U/o XVIII Rule 2 r/w Sections 114 & 151 CPC for recalling of the order, dated 11.04.2018, and permission to the defendant number 1 to withdraw

her affidavit of evidence and file fresh after the conclusion of the plaintiff's evidence and the subsequent reply of the plaintiff. The present order has been passed keeping in view the legal understanding that justice should not only be done but also seen to have been done means that people should know that justice is done. Also, judicial system has always to keep in mind that every trial is a voyage of discovery in which truth is the guard. Reliance is placed upon *Ritesh Tiwari & Anr. v. State of UP & Ors. (2010) 10 SCC 677*. Accordingly, present application is disposed of.

(Manu Vedwan)
ADJ-02/North-East, KKD Courts,
Delhi/08.04.2024