

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

CS No. 147/2016

Aslam Quadri

...Plaintiff

Versus

Riyazat Ali

.... Defendant

02.04.2024

**ORDER ON APPLICATION UNDER ORDER XVIII RULE 17
READ WITH SECTION 151 MOVED ON BEHALF OF
DEFENDANT NUMBER 2.**

1. Vide this order, I shall dispose of application under Order XVIII Rule 17 read with section 151 CPC moved on behalf of defendant number 2 for recalling the witnesses.

2. It is stated in the application that plaintiff has filed the present plaint against the defendants for possession, permanent and mandatory injunction. It is further stated that the matter was fixed for cross-examination of PW-1 by the counsel for defendant no. 2. It is further stated that the counsel for defendant no. 2 was busy in some other court, but, he had informed that he would appear at an

appropriate time for the cross-examination of PW-1. It is further stated that after finishing other court work when the counsel has appeared to cross the witness, it was already closed. It is therefore requested that one opportunity be granted to counsel for cross-examination of PW-1. It is therefore requested that the application of defendant number no. 2 be accordingly allowed.

3. On the other hand, in the reply filed by the plaintiff apart from negating the contentions of the defendant number 2, it is stated that the defendant number 2 intentionally as well as deliberately did not cross-examine the PW-1 on various dates including the date, when, his right was closed. It is specifically submitted that defendant number 2 is more interested in delaying the present matter in intentionally not cross-examining PW-1. It is therefore requested that no opportunity be granted to defendant number 2.

4. I have heard the arguments at length advanced by both the parties. Concerned application as well as complete case file perused carefully.

5. It is to be understood that endeavour of Court should be to ensure that all relevant and best materials are allowed to be brought on record, which could effectively, conclusively and finally adjudicate the dispute between the parties. Therefore, in the totality of circumstances, to avoid the miscarriage of justice and for the advancement of the ends of justice, the abovesaid application is

allowed subject to following conditions that is one effective opportunity is granted to the defendant number 2 to complete the cross-examination of PW-1 subject to cost of Rs. 1000/- to be paid to the witness. Witness be summoned, if needs to be summoned in advance.

With these observations, the abovesaid application stands disposed of as allowed.

(Manu Vedwan)
ADJ-02/North-East, KKD Courts,
Delhi/02.04.2024