

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

CS No. 548/16

Nawab Khan

...Plaintiff

Versus

Rani @ Fatima

.... Defendants

17.08.2023

**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 defendant no. 1 & 2 are the husband and wife and during the course of lock down on 15.03.2020 defendant no. 1 had expired due to corona pandemic. On 07.10.2021 case was fixed for plaintiff evidence and his cross-examination could not be done as Ld. Counsel for defendant was not available. Thus, PW-1 could not be cross-examined and his evidence was

closed. It is submitted that after the death of the defendant no. 1 defendant no. 2 had gone into depression and unable to follow the instructions of lawyers. Therefore, one opportunity be granted to defendant no. 2 to cross examine the PW-1 otherwise, it would serious prejudice the rights of the defendant. It is therefore requested that the application of defendant number no. 2 be accordingly allowed.

3. On the other hand, in his reply apart from denying the contentions raised by the applicant it is submitted by the plaintiff that the application of the defendant is time barred and is based upon false and fabricated facts. It is stated that intention of the defendant is just to delay the present matter and therefore he has not cross examined the PW-1 and now moved this application.

4. I have heard the arguments at length advanced by both the parties. Concerned application as well as complete case file perused carefully. During the course of arguments, it is stated by Ld. Counsel for plaintiff that the Court may give right to the defendants to lead evidence subject to the cost.

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 her evidence subject to cost of Rs. 2,000/- to be deposited in DLSA, North East District. 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/17.08.2023