

NIDHI GOYAL Vs. GUDDU CHAUDHARY AND ORS.

20.12.2023

Present: Ms Sarita Garg, Id counsel for the plaintiff with
plaintiff in person.
Sh K K Gupta, Id counsel for the defendants with
defendant no.1 in person.
Ms Chitrakshi, Id counsel for the defendant no.3.

It is seen that an application under Order XVIII Rule 17 CPC moved on behalf of the plaintiff is pending adjudication for re-opening of plaintiff evidence.

Today, Ld. Counsel for the defendant no.1 had been supplied with the copy of this application and he has straightway argue on the same without filing any formal reply thereto.

I have heard Ld. Counsel for the parties and have gone through the record.

It is seen that on dated 21.03.2022 the plaintiff as PW1 was examined, and on 18.01.2023 and 18.05.2023 she was cross examined at length and discharged and vide her separate statement given by her on 18.05.2023 in the presence of her counsel, the plaintiff evidence was closed by the Court. Now by way of the present application, it is submitted by Ld. Counsel for the plaintiff that she has been engaged by the plaintiff recently and she inspected the file and came to know that plaintiff evidence has been closed on 18.05.2023 whereas the plaintiff wants to examine more witnesses to prove her case. Along with this application, a list of witnesses mentioning 15 witnesses has also been filed.

It is seen that at no earlier stage, any list of witnesses had been filed by and on behalf of the plaintiff. It is no where

case of the plaintiff that her statement had been recorded by the Court by force. Her statement closing the plaintiff evidence has been recorded in the presence of her counsel. Change of new advocate is no ground to open the plaintiff evidence. The affidavit in evidence on behalf of the defendant witnesses have been filed on record since long and copies thereof have also been supplied to Ld. Counsel for the plaintiff earlier.

As per law, it was required on the part of the plaintiff to file the list of witnesses within 15 days from the date of framing of issues. It is not that every time a new counsel is engaged by any party, a de nova trial has to be started as per the whims and fancies of any such newly engaged counsel. Whatever the plaintiff had to say and wanted to prove, she has done so by her examination as PW1.

In view of above, I do not find any merits in the application under Order XVIII Rule 17 CPC and the same is hereby dismissed.

Memo of appearance filed on behalf of defendant no.3.

Defendant no.1 is examined as DW1 and tendered his evidence in affidavit as Ex.DW1/A. His cross-examination is deferred at the request of ld counsel for the plaintiff as she is not prepared.

Ld counsel for the defendant no.1 submits that defendant no.1 is the only witness who is to be examined on their behalf.

Put up the case for cross-examination of DW1 on **26.02.2024.**

(Kishor Kumar)
ADJ-04, North, Rohini Courts,
Delhi/20.12.2023