

CS No. 518/17**Narinder Vs. Satish Goel****02.11.2019**

Present: Sh. R.K. Arora, Ld. Counsel for the plaintiff
with PW R.S.Yadav in person.

D-1 Ex-parte.

D-2 with Sh.N.S.Dalal, Ld. Counsel for the
defendant no.2

Matter is fixed for examination of PW R.S.Yadav.
At this stage, one application filed by defendant no.2
U/s.151 CPC with the prayer that plaintiff be not allowed to
record the testimony of PW R.S.Yadav. Copy supplied.

It is submitted by Ld. Counsel for plaintiff that he
does not want to file any reply to the said application. Heard
detailed arguments on the said application on behalf of
counsels for both the parties.

It has been vehemently argued by the Ld.
Counsel for defendant no.2 that PW R.S.Yadav is not the
witness to any of the facts concerning the case. It is further
argued that the witness had visited the suit property on
20.09.2019 i.e. during the pendency of the suit. His name
is neither mentioned in the list of witnesses nor his affidavit

is with respect to the site plan already on record. It is argued that the plaintiff through the testimony of said witness wants to bring on record a new site plan which is neither the part of the pleadings nor has been filed on the record earlier.

Per contra, it is argued by the Ld. Counsel for the plaintiff that plaintiff through the testimony of PW R.S.Yadav/ Architect wants to clarify regarding the total area of the suit property. It is submitted that the concerned witness shall only depose with respect to the direction and measurement of the suit property on the basis of the site plan already on record. He has filed a fresh detailed plan after inspection on the basis of the site-plan already on record to give the exact measurement and location of the suit property.

Perused the affidavit of PW R.S.Yadav and the application filed by the defendant no.2 U/s.151 CPC and the complete record file. The plea of the Ld. Counsel for the plaintiff qua examining PW R.S.Yadav, Civil Engineer/ Architect has already been allowed vide order dated 26.09.2019. The plaintiff through the testimony of PW R.S.Yadav is not placing on record any new site plan or new fact. From the affidavit of PW R.S.Yadav which is already on record, it is evident that plaintiff wants to examine him to

clarify the directions of the suit plot and the measurement of the plot.

The argument of the Ld. Counsel for the defendant no. 2 that the plaintiff wants to bring on record some new facts or that the affidavit of PW R.S.Yadav is beyond pleadings is misconceived and not tenable. The defendant anyways has the right to cross-examine PW R.S.Yadav. The application of defendant no.2 being devoid of any merits is dismissed.

Put up for recording the testimony of PW R.S.Yadav on **29.11.2019.**

Kiran Gupta
ADJ-03, Rohini Courts
North District, Delhi
02.11.2019