

New CS No. 577358/16

10.01.2017

Present: Sh. Arvind Jha, Ld. Counsel for plaintiff.

Defendant no.1 and 2 in person.

One application for waiver of cost filed on 23.12.2016 moved on behalf of defendant no.1 and 2 is taken up for consideration.

Arguments heard.

Record perused.

A perusal of the record reveals that written statement has been filed on behalf of defendant no.1 and 2 on 03.09.2016 whereby defendant has been given an opportunity vide order dated 30.08.2016 to file the written statement and it is also reflected that written statement was filed within three days from the date of granting of permission to them. Therefore, cost is imposed upon the defendants.

Replication is not filed.

At this stage, counsel for plaintiff seeks some time to file replication.

At request, one opportunity is granted to the plaintiff to file the replication with the direction to supply the copy of the same to the opposite party on or before the next date of hearing.

Pleadings of the parties have been completed. Admission-denial of documents not conducted, hence, the matter is proceeded further. The following issues are framed as under:-

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1. Whether the plaintiff is entitled to a decree for recovery of Rs. 32,94456/- along-with interest 24 % p.a. from the date of filing of the suit till its realization, as prayed for? (OPP)
2. Whether the entire payment has been made by defendant no.1 and 2 as alleged? (OPD D1 and D2)
3. Whether the suit of the plaintiff is maintainable due to mis joinder of the case, as alleged? (OPD)
4. Any other relief.

No other issue arise or pressed for. Put up for PE for 02.05.2017. List of witnesses be filed within 15 days from today. Both the parties are directed to be present on 03.04.2017 for supplying the advance copy of affidavit in the court.

A perusal of the file reveals that defendants have been alleging that they have made the entire payment to the plaintiff therefore, it would be appropriate in justice, defendants are asked to lead evidence prior to the plaintiff evidence.

Put up for DE on 02.05.2017. List of witnesses be filed within 15 days from today. Both the parties are directed to be present on 03.04.2017 for supplying the advance copy of affidavit in the court.

(Prashant Kumar)
ADJ-04(NW)/Rohini Courts
Delhi/10.01.2017