

02.11.2022

Present : Ms. Chaya Arya, Ld counsel for plaintiff with
plaintiff.

Sh. H. P. Jha, ld counsel for defendant.

It is stated by the counsel for the plaintiff that opportunity of the defendant to cross-examine PW-1 has already been closed and no other witness is to be examined for the plaintiff.

The counsel for the defendant stated that one application has been moved by the defendant for recalling the witness which is pending for disposal.

Submissions on the same are heard.

Put up for orders on the said application for post lunch session.

At 02:35 PM

Present: None.

As per record issues were settled upon completion of pleadings on 17.08.2017 and plaintiff was asked to lead the evidence. The affidavit of plaintiff was filed for his evidence on 27.10.2017 and he was examined on 26.03.2018. The cross-examination of witness was deferred at the request of defendants as the counsel for defendant no. 1 was not feeling well and main counsel for defendant no. 2 was not available. On 05.11.2018

again adjournment was sought on behalf of defendant no. 1 and on that none appeared for defendant no. 2. On 14.05.2019 none appeared on behalf of defendants to cross-examine the plaintiff and the ld. Predecessor of this court closed the rights of defendant to cross-examine the witness due to their non appearance.

The defendant no. 1 filed the present application for recalling the plaintiff for cross-examination on 23.11.2021. It is the submission of defendant no. 1 that the witness is necessary and urgent to prove the fact of the case and that he is ready to pay the diet money on spot as the order of the court. It is submitted that if court does not allow the present application the applicant will suffer irreparable loss which cannot be compensated in terms of money in future.

The application is opposed on behalf of plaintiff with submissions that the same is filed belatedly and no reason is mentioned in the application due to which the witness could not be cross-examined. It is submitted that the defendant no. 1 is neither making the payment of rent nor vacating the suit property and is delaying the trial with malafide intentions.

Considering the conduct of defendant no. 1 where repeatedly adjournments were sought for cross-examination of plaintiff and no reason is disclosed about non appearance of applicant or his counsel to cross-examine the witness on 14.05.2019, it appears that contention of the plaintiff is having forged that defendant is interested to delay the trial. The application is dismissed accordingly.

Matter be put up for defendant evidence on **20.02.2023**. The chief examination of witnesses will be by way

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of affidavit and advance copy of same be supplied to opposite party/counsel at least 15 days prior to next date of hearing.

(SUNIL CHAUDHARY)
ADJ-04, North West,
Rohini Courts, Delhi
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