

M/s Bhumika Ispat Udyog Pvt. Ltd. vs. Devender Gupta

CS No. 577342/16

04.06.2018

Present : Ms. Isha Aggarwal, proxy Counsel for the plaintiff.

Defendant in person along with learned Counsel Sh. M.K. Kaushik.

The defendant has paid the previous cost of Rs. 7500/- to the proxy Counsel for the plaintiff today in the Court.

The proxy Counsel for the plaintiff states that she has instructions from the main Counsel Sh. Rajiv Aggarwal that no reply to the application u/s 151 CPC moved by the defendant praying therein to recall the order dated 19.03.2018, is to be filed and that she will straightaway argue on the same.

Arguments heard.

During the course of the arguments, it is submitted by the proxy Counsel for the plaintiff that a similar application was moved earlier as well by the defendant on 26.10.2017 which was allowed subject to cost and once again the defendant has moved similar application thereby seeking permission to cross examine PW1 which shows that the defendant is negligent is adopting delaying tactics. It is accordingly prayed by the proxy Counsel for the plaintiff that the application under reference may be dismissed.

On the other hand, the learned Counsel for the defendant has argued on the lines of his application and has submitted that on 08.01.2018, the learned Counsel for the plaintiff had stated that authorized

contd.....

representative/PW1 namely Pradeep Kumar Mittal was to be substituted by Pawan Kumar as he (Pradeep Kumar Mittal) was out of country and hence, the plaintiff was directed to move an appropriate application to substitute its authorized representative. It is further submitted that though on the next date of hearing i.e. on 19.03.2018, the learned Counsel for the defendant was not available due to illness, but the plaintiff also did not move any such application for substituted of its authorized representative/PW1, hence, there was no question of cross examining PW1 on 19.03.2018 and in those circumstances, the opportunity of the defendant to cross examine PW1 was closed.

However, at this stage, the proxy Counsel for the plaintiff states that she has instructions from the main Counsel that now the plaintiff does not want to substitute its authorized representative and will continue with its previous authorized representative/PW1 Sh. Pradeep Kumar Mittal.

In these circumstances, I deem it appropriate to give one more opportunity to the defendant to cross examine PW1 and it is made clear to the defendant that no further opportunity shall be given to him for this purpose. The application under reference accordingly stands disposed of.

Put up for cross examination of PW1 on 31.07.2018.

(RAJNISH BHATNAGAR)
Distt. & Sessions Judge (N/W)
Distt. Court Rohini, Delhi
04.06.2018