

CS 2235/16
SAROJ Vs. ASHARFI

18.09.2023

Present: Sh. H. N. Pandey, Id. Counsel for plaintiff with
plaintiff.
Sh. Haim Kumar, Id. Counsel for defendant with
defendant.

Matter is listed for DE today.

Earlier, vide order dated 01.03.2023, a cost of Rs.500/- was imposed upon the plaintiff to be deposited with DLSA. Cost paid. Receipt of Rs.500/- filed. Taken on record.

Counsel for defendant has filed an application u/s. 151 CPC on behalf of defendant for setting aside order dated 19.04.2014 and for granting opportunity to cross examine PW3. He submits that inadvertently, he had noted a wrong date and therefore, he could not appear on date fixed for cross-examination of PW3.

Reply has been filed by the counsel for the plaintiff.

It is well settled law that a matter should be decided on merits.

In view of the aforesaid, present application is allowed subject to cost of Rs.1,000/- to be paid by the defendant to the plaintiff. Defendant is given one opportunity to cross-examine PW3.

Counsel for defendant has filed affidavit in evidence of DW1 alongwith list of witnesses.

Counsel for plaintiff submits that he has not received the copy of affidavit in evidence alongwith list of witnesses. Counsel for defendant submits that he has supplied the same. However, in order to avoid the controversy, he submits that he would supply the same again during the course of the day.

Put up for payment of cost of Rs.1,000/- by the defendant to the plaintiff and for cross-examination of PW3 on 13.12.2023.

(Mohammad Ehtesham)
ADJ-03, Shahdara
KKD Courts, Delhi
18.09.2023