

Civ DJ 8740/2016
GEA Westfalia Separator India Pvt. Ltd.
Vs. Deccan Agro Farm Pvt. Ltd.

28.01.2023

Present: Sh. Dhananjay Jain, Ld. Counsel for the plaintiff.
 Sh. Anurag Jain, Ld. Counsel for defendant.

DW2 Mr. Arjuna Vemana Reddy is present, cross examined and discharged.

No other DW present.

There is no list of witness of defendant.

DE stands closed.

1. Through an application, the defendant seeks the summoning of seven employees of plaintiff company as defence witnesses. No specific reason could be assigned by defendant in application for necessity to summon plaintiff's employees as defence witnesses. The application is considered and dismissed.

2. Defendant has pressed for arguments of an application filed under Order XI Rule 1 & 5 CPC, through which the defendant seeks to ask 102 questions as interrogatories to the plaintiff. The application was filed on 28/04/2017. The plaintiff has already replied to the said application on 08/06/2017.

3. The plaintiff has rightly replied that instead of asking relevant and admissible questions in cross examination to plaintiff's witnesses, the defendant is questioning the plaintiff through interrogatories. The plaintiff completed its evidence on

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11/12/2018, by which date the defendant had availed of sufficient opportunity to cross examine the plaintiff's witnesses. Ultimately, Ld. Defence counsel withdrew the application filed under Order XI Rule 1 & 5 CPC calling upon the plaintiff to deliver interrogatories, through his statement dated 11/12/2018.

4. Thereafter, the defendant again filed a fresh application under Order XI Rule 1 & 5 CPC on 04/06/2022, calling upon the plaintiff to answer 29 questions by way of interrogatories.

5. It is observed that the application is *per se* inadmissible, for the defendant had already availed of the opportunity to cross examine the plaintiff's witnesses through all questions it deemed fit to ask to plaintiff's witnesses. In fact, as on today, the defendant has already completed defence evidence. The application is completely misconceived and is dismissed.

Put up for final arguments on 15/04/2023.

Parties are at liberty to file written final arguments through brief synopsis.

(VISHAL SINGH)
ADJ-03, WEST/DELHI
28.01.2023