

13
CS DJ ADJ17198/16
SUNIL AND ORS
Vs.
KAMLESH AND ORS

Present: Sh Satyaarth Bala Sinha proxy counsel for Sh Sunil
Chauhan counsel for plaintiff
Sh Joginder Sehrawat counsel for defendant No.2
Defendant Nos. 1 and 3 are *ex parte vide order dated*
07.11.2017

ORDER
25.11.2019

1. At the outset, it is observed that in order dated 27.08.2019, it has been inadvertently noted in the presence of the counsels that defendant Nos. 1 to 3 are *ex parte*, whereas the defendant No.1 and defendant No.3 are *ex parte vide order dated 07.11.2017*.

2. Record perused.

3. Let the error be rectified and order sheet dated 27.08.2019 be read as:

Defendant Nos. 1 and 3 are ex parte vide order dated 07.11.2017

4. On perusal of the case record, it is observed that there are two evidence by way of affidavit of plaintiff witness, Jai Singh. The first evidence by way of affidavit was filed on 07.11.2017 and whereas the second evidence by way of affidavit has been filed on 29.04.2019. it is further observed that the examination in chief of PW-2 – Jai Singh

recorded on 15.07.2019 states that his evidence by way of affidavit – Ex.PW2/A (running into 5 pages).

5. Id. counsel for defendant submits that the evidence by way of affidavit filed on 29.04.2019 is the correct evidence by way of affidavit as the same was filed subsequent to the amendment of plaint. In view of the above observations, it is apparent that the Id. Counsel for plaintiff on 15.07.2019 inadvertently marked the previous evidence by way of affidavit as Ex.PW2/A, whereas the subsequent affidavit dated 29.04.2019 is the correct evidence by way of affidavit. Let the error be rectified and same be duly noted in the statement of PW-2.

6. Cross examination of PW-2 is recorded partly and his remaining cross examination is deferred at the request of PW-2 as he is not feeling well. Request not opposed.

7. List this matter for cross examination of PW-2 on **05.12.2019**.

(Hargurvarinder S.Jaggi)
ADJ-02 : Dwarka Courts
New Delhi/25.11.2019
AP