

26.11.2024

Present: Sh. Tarun Gaur and Shubham Arora, Ld. Counsels for plaintiff along with plaintiff/PW1.  
Sh. Satyendra Kajla, Ld. LAC for defendant (through VC).  
Sh. Raj Gaurav, Ld. Counsel for defendant (Enrollment No. D/3316/2015) (Vakalatnama is not on record) along with defendant and her daughter (seems to be Advocate as in Robe).

1. Ld. LAC seeks discharge on behalf of defendant. Not opposed by defendant as she has already engaged new counsel and took back her brief. Heard. Sh. Satyendra Kajla, Ld. LAC for defendant stands discharged.

2. At this stage, Ld. Counsel for defendant seeks adjournment being recently engaged. Application for waiver of cost is also filed on behalf of the defendant. Copy not supplied. Ld. Counsel for defendant submits that, an application for framing of additional issue is also pending for disposal.

3. Ld. Counsel for plaintiff vehemently opposed adjournment as well as above application on the ground that, same is merely a delay tactics and right to cross-examine may be closed.

4. Submissions heard. Record perused.

5. Record reveals that, vide order dated 26.07.2022 Ld. Predecessor of this court framed issues and matter is pending for PE since then. Record also reveals that, after framing of issues application u/o VI Rule 17 CPC was filed on behalf of the defendant but, same was dismissed vide order dated 16.08.2023. Thereafter, PW1 was examined but, her cross-examination was

deferred at the request of Proxy counsel for defendant and last and final opportunity was granted to defendant to cross-examine PW1 on 16.01.2024 but, again on said date another application u/s 35 and 36 of Indian Stamp Act r/w Sec. 151 CPC was filed on behalf of the defendant and adjournment sought which was declined by this court and defendant was directed to cross-examine PW1 but said cross-examination was again deferred for 13.02.2024. On 13.02.2024 another application u/o XIV Rule 5 r/w Sec. 151 CPC filed on behalf of the defendant.

6. Record reveals that on 03.08.2024 matter was listed for argument on pending application as well as for cross-examination of PW1 but, adjournment sought on behalf of defendant hence, another last and final opportunity was granted to defendant to cross-examine PW-1 but, again on 07.09.2024 adjournment was sought on behalf of Ld. LAC for defendant being recently engaged and same was granted subject to cost of Rs. 2,000/-. Record also reveals that, on 07.09.2024 this court specifically mentioned that the court is not inclined to further adjourned the present matter for the purpose of cross-examination but, in the interest of justice, last and final opportunity was given.

7. It is well settled law that, where a party is acting in a recalcitrant fashion, and refusing/avoiding to cross-examine the witness on repeated occasions without due justification, the court may close the party's right to cross-examination.

8. Thus, considering the facts and circumstances of the present case, this court is no more inclined to grant further opportunity to cross-examine PW-1 hence, **right of defendant to cross-examine PW1 stands closed. Application for waiver of cost also stands dismissed.**

9. PE stands closed. Separate statement of plaintiff recorded to this effect.
10. Defendant is directed to file evidence by way of affidavit for all defendant witnesses within four weeks from today with advance copy to opposite side.
11. Put up for argument on all pending applications and DE on 05.03.2025.
- 12 Copy of the order be given *dasti*, as prayed.

(SHILPI M JAIN)  
DJ-05 (SW)/Dwarka Courts  
New Delhi: 26.11.2024 (sr)