

C.S. No. 942/18
Bindu Garg vs. Nirmala Gupta

08.02.2019

Present : Sh. Sandeep Chaudhary, counsel for the plaintiff with
witness/PW-2.

Sh Vivek Gaur, counsel for the defendant no.1.

Sh. Pradeep Kumar, counsel for defendant nos. 2 & 3.

Arguments on the application of the plaintiff u/O. 16 Rule
1(3) CPC heard.

Record perused.

Vide the aforesaid application, the plaintiff is seeking
permission to examine Rajesh Kumar Garg, husband of the plaintiff,
Shammi Khurana and SI Pawan Kumar averring inter-alia that Rajesh
Kumar Garg was involved in the complete transaction between the
plaintiff and defendant no.1.

Counsel for defendant no.1 has no objection to the
examination of the said witnesses. However, he has vehemently
objected to the examination of Shammi Khurana and SI Pawan Kumar
as they are not relevant to the controversy between the parties.

Perusal of the record reveals that the plaintiff has not given
any reason much less the sufficient reason as to why the names of
these witnesses have not been included in the list of witnesses filed
earlier and thus, on this score alone, the present application is liable to
be rejected.

On merits also, the name of Shammi Khurana who is
claimed to have assisted in getting the deal qua the flats to defendant

nos. 2 & 3 is not mentioned either in the pleadings of the plaintiff or his evidence and thus, it is settled law that no amount of evidence can be led which are beyond pleadings.

As far as, the examination of SI Pawan Kumar is concerned, he has only investigated the case in respect of the criminal matter and the plaintiff has failed to specify as to how the said record is relevant to decide the present controversy.

In view of aforesaid, the request of the plaintiff to examine Shammi Khurana and SI Pawan Kumar is declined. However, plaintiff is allowed to examine witness Rajesh Kumar Garg, husband of the plaintiff, in view of the pleadings of the plaint and no objection given by the counsel for defendant no.1. The application of the plaintiff is disposed off accordingly.

PW-2 Rajesh Kumar Garg is present, examined, cross-examined and discharged. No other PW is present. However, counsel for the plaintiff submits that he wants to examine one more witness as per the list of witnesses. At his request, now to come up for entire RPE on **11.03.2019 at 11:30 AM**. Affidavit, if any, be also filed under advance copy to the counsel for the defendants.

Date and time has been given as per the convenience of the parties.

(Mohd. Farrukh)
ADJ(SW)/Dwarka Courts
08.02.2019