

Suit No:610274/16

29.11.2018

Present: Sh. B.L Chawla, counsel for the plaintiff.

Defendant no.2 in person.

None for defendant no.1.

Defendant no.2 seeks passover to call the counsel.

Counsel for the plaintiff submits that affidavit filed on behalf of defendant no.2 subsequently cannot be taken on record as prior to order dated 20.11.2016, affidavit in evidence was already filed by defendant no.2.

At request of defendant, matter is passed over to 11.30 AM.

Sugandha Aggarwal

ADJ/West/Delhi

29.11.2018

11.30 AM.

Present: Sh. B.L Chawla, counsel for the plaintiff.

Sh. Luvkesh Chawla, counsel for defendant no.1.

Sh. Ankur Jain, counsel for defendant no.2.

It is stated on behalf of defendant no.1 that defendant no.1 does not wish to lead any evidence further for additional issues.

An affidavit in evidence has been filed on behalf of defendant no.2. Advance copy of the same supplied to counsel for plaintiff.

Counsel for the plaintiff submits that in the said affidavit, facts stated in paragraph no.3 are beyond pleadings as same are not pleaded in the written statement filed by defendant no.2. Parties heard on the said aspect.

Parties are at liberty to file written submissions if any on said aspect within 10 days from today.

Another application seeking waiver of the cost of Rs. 8000/- has been moved by defendant no.2. Kept on record. Copy supplied.

It is stated in the application that defendant no.2 is not in a sound financial position to pay the cost. This is no justified ground for waiver of the cot. Application is neither signed by party nor the counsel. Only supporting affidavit is signed. Cost was imposed after giving detailed observation regarding conduct of the defendant in Order dated 19.07.2016. Hence, no justified ground is made out for waiver of the cost. Application is dismissed. Cost be paid on the NDOH.

Be listed for orders on the point whether paragraph no.3 of the affidavit in evidence filed by defendant no.2 is beyond pleadings or not on 15.12.2018 at 4 PM.

Sugandha Aggarwal
ADJ/West/Delhi
29.11.2018