

Suit No:612897/16

Atul Kumar & ors v/s Bimla Devi & ors

27.11.2019

Present: Sh. Raj Kumar, father of the plaintiff.
Sh. Sumit Khurana, proxy counsel for defendant no.2, 3
and 4.

Defendant no.1 is already ex-parte.
Sh. Samar Bhutani, proxy counsel for defendant no.5
and 6.

Witness, Sh. Narender Kumar, CDV from East Sub
Registrar Office is present.

Passover sought on behalf of plaintiff stating that main
counsel is busy in another court and he shall be available at 1 PM.

It is stated on behalf of defendant no.2, 3 and 4 that
main counsel will be available for cross examination at 1 PM but
it is stated on behalf of defendant no.4 and 5 that main counsel is
stuck in another court.

As witness is summoned, this is no ground for sending
witness back unexamined.

At request of the plaintiff, be listed for recording
testimony of the witness at 1 PM today itself.

Sugandha Aggarwal

ADJ/West/Delhi

27.11.2019

1 PM.

Present: Sh. Vineet Sharma, counsel for the plaintiff.
Defendant no.1 is already ex-parte.
Sh. S.K Khanna, counsel for defendant no.2, 3 and 4.
None for defendant no.5 and 6.

Witness, Sh. Narender Kumar Yadav has been
examined as PW-3. He is cross examined on behalf of defendant

no.2, 3 and 4. None is present on behalf of defendant no.5 and 6.

Witness is a summoned witness and matter was passed over to 1 PM in presence of proxy counsel for defendant no.5 and 6. In these circumstances, I do not find any ground to adjourn the matter for cross examination of PW-3 by defendant no.5 and 6. Hence, opportunity of defendant no.5 and 6 to cross examine PW-3 stands closed.

Counsel for the plaintiff has stated that witness has only brought summoned record and as per Section 138 of Indian Evidence Act, there is no requirement to cross examine the witness. The opposite party has to be given fair opportunity to cross examine the witness. Needless to say, witness can be cross examined only to the extent of producing record in the court. Accordingly, counsel for defendant no.2, 3 and 4 is allowed to cross examine witness only to the said extent. PW-3 is cross examined on behalf of defendant no.2, 3 and 4. PW-3 stands discharged and PE stands closed vide separate statement of counsel for plaintiff.

Counsel for defendant no.2, 3 and 4 submits that defendant no.5 and 6 were supporting claim and they shall lead evidence first. As none is present on behalf of defendant no.5 and 6, said request shall be considered on the NDOH.

Be listed for consideration on the aspect as to who shall lead evidence on 10.01.2020. Diet money of Rs. 400/- paid to the witness.

Sugandha Aggarwal
ADJ/West/Delhi
27.11.2019