

Suit No: 613012/16

Sunny Johar & Anr vs Jagdish Verma & ors

21.10.2019

Present: None

Plaintiff has moved two separate applications one is seeking waiving of cost imposed vide order dated 16.01.2019 and another seeking condonation of delay in filing the list of documents.

Firstly, application for waiving of cost is taken up for consideration. Arguments heard on behalf of both parties and same are considered. Record perused.

On 16.01.2019, cost was imposed by the court upon the plaintiff for not filing affidavit in evidence and for not taking steps for leading plaintiff's evidence. It is stated in the application that plaintiff's counsel has met with an accident and has suffered bone injuries in the month of November, 2018, therefore, he could not appear before the court on 16.01.2019. It is stated that considering the personal difficulty of the counsel, cost of Rs. 20,000/- imposed upon the plaintiff may be waived. Perusal of record shows that contention regarding accident of the counsel was already considered by the court on 16.01.2019. The cost was imposed after considering the said aspect only. The entire conduct has been narrated in the order dated 16.01.2019. It is specifically observed by the court that if counsel has met with an accident in November, 2018, then also prior to that there was ample time to prepare affidavit in evidence as

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issues were framed in the year 2014. Hence, there is no justified ground for waiving of the cost imposed vide order dated 16.01.2019. Application is dismissed.

Now, another application seeking condonation of delay in filing list of witnesses is taken up for consideration. It is stated in the application that earlier counsel did not file the list of witnesses. Application is vehemently opposed.

Perusal of record shows that no plaintiff's witness is examined till date and evidence is at the initial stage. Hence, if list of witnesses is taken on record, no prejudice will be caused to the defendant. Cost has already been imposed upon the plaintiff for delaying plaintiff's evidence.

Considering the entire circumstances and in the interest of justice, delay in filing the list of witnesses is condoned. List of witnesses filed alongwith the application is taken on record.

Matter be listed for PE on 10.01.2020.

Sugandha Aggarwal
ADJ-07/West/Delhi
21.10.2019