

22.03.2025

Present : Sh. Mukesh Singh, Ld. counsel for the plaintiff.
Sh. Ajay Kumar, Ld. counsel for the defendant through V.C.
Sh. Rahul Kumar, Ld. Counsel for the defendant.

1. Matter is pending before the Ld. LC. It is submitted that one witness i.e. the plaintiff no.2 has been examined. The plaintiff could not examine the other witnesses due to bar elections and ill health of the witnesses but now the plaintiff shall take steps for conclusion of the evidence i.e. evidence of PW-3 to PW-5 at the earliest. Hence, the matter may be adjourned.

2. It is submitted by Ld. counsel for the defendant that the plaintiffs have not paid the previous cost.

3. It is submitted by Ld. counsel for the plaintiff that he shall get the cost paid before the LD. LC. Let the same be done positively.

4. Further, it is submitted by Ld. counsel for the defendant that as per the list of witnesses filed by the plaintiffs, they have to examine only the plaintiffs. Hence, the affidavits of the other witnesses could not have been filed. Further, the plaintiff no. 2 has already been examined. Hence, there is no requirement for her SPA to depose in her place.

5. Ld. counsel for the plaintiff submits that it is the prerogative of the plaintiff as to which all witnesses they have to examine. They have

already filed the list of witnesses. Hence, the defendant cannot object to the same. It is

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further submitted that the plaintiffs have filed an updated list of witnesses and the plaintiffs wish to examine only the witnesses mentioned therein.

Put up for consideration at 4 pm.

(RUCHIKA SINGLA)
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At 4 pm

Present: None

1. Record perused.

2. Three plaintiffs have filed the present suit, viz. Smt. Usha Nanda, Smt. Mukta Nanda and Sh. Ashok Kumar Nanda. However, the suit has been instituted through Sh. Ashok Kumar Nanda for himself and as SPA for the other two plaintiffs. As mentioned above, the plaintiff no. 2 Smt. Mukta Nanda has already been examined. Ld. counsel for the defendant has taken an objection that the SPA cannot be examined when the plaintiff herself has been examined. However, as the SPA holder Sh. Ashok Kumar Nanda is also one of the plaintiffs i.e. the plaintiff no.3, his examination is allowed by this court.

3. Further, perusal of record shows that the plaintiffs filed the first list of witnesses on 28.11.2024, wherein only the names of the plaintiffs were mentioned to be the witnesses. On 05.12.2024, the plaintiffs filed another list of witnesses adding the names of Sh. Vijay Kumar Saha and Sh. Surinder Nath

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Nanda. The filing of this list was objected to be Ld. counsel for the defendant as it is submitted that prior to the filing of this list, he has already cross-examined PW Mukta Nanda. Hence, it is stated that the plaintiff has filed the same to fill the lacunae of their case. Further, no permission has been sought by the plaintiffs to file the additional list. The same cannot be filed in such a manner. Hence, it is submitted that the plaintiffs cannot be permitted to examine the additional witnesses.

4. The two additional witnesses are the witnesses to the Lease Deed relied upon by the plaintiffs to show that the same was executed between the plaintiffs and the defendant. The said Lease Deed was filed by the plaintiffs alongwith the plaint. Admittedly, the names of these witnesses should have also been included in the first list of witnesses filed by the plaintiffs. However, the affidavits of these witnesses are already on record and they have been supplied to Ld. counsel for the defendant as well. Hence, considering that the plaintiff's evidence is still going on and two plaintiffs are not examined yet, the court is inclined to allow the examination of these witnesses as well. However, it is clarified that the plaintiffs shall not be allowed to examine any other witnesses apart from the witnesses as mentioned in list of witnesses dated 05.12.2024.

Put up for report of Ld. LC for 15.05.2025.

(RUCHIKA SINGLA)
DJ-03 (N/W)
Rohini Courts :Delhi/22.03.2025