

Order on I.A. No.7

The plaintiff/applicant filed an application under order 18 Rule 17 of Code of Civil Procedure in order to recall the Pw-1 for the purpose of further chief-examination.

2. In the accompanying affidavit, which is enclosed I.A. No.7 wherein he stated that, when the case was set down for cross-examination at the time of chief-examination, due to mistake and a bonafide reason some documents have been left out from marking of documents. Recently he came to know that some documents have been left out from marking Exhibits. Now it is very necessary to mark the said documents. Hence, it is just and necessary to re-call evidence of Pw-1 in order to further chief-examination of Pw-1. Accordingly prays for allow the application.

3. On the other hand, the learned counsel for the defendant filed objection to the application and contended that, the application filed by the plaintiff is not maintainable and even after giving sufficient opportunity to the plaintiff he did not chief-

examination of Pw-1 and further contended that, to drag on the proceedings of the Court he filed this false application at belated stage. Accordingly, prays to reject the application.

4. Heard arguments on both sides and perused materials available on record. It is noticed that the plaintiff filed this suit for the relief of possession. On the other hand, the defendant denied the case of the plaintiff.

5. On the basis of pleadings this Court has been framed issues and posted for trial. Further, it is notice that the plaintiff side evidence is closed and case posted for the cross of Pw-1. Moreover, it is not proper to curtail parties from producing respective evidence on technical grounds. Therefore, this Court opinion that it is just and necessary to recall the Pw-1 in order to chief-examination by the plaintiff. However, on perusal of order sheet this Court noticed that, they caused delay by filing the application for that the plaintiff has to compensate by way of cost to the Pw-1. Hence, keeping in view of the facts and circumstances of the case the application filed by the plaintiff is allowed on cost of

Rs.200/-. Hence, Pw-1 is recalled subjected to chief-examination on next date of hearing without fail. The counsel for defendant is directed to keep the Pw-1 on next date of hearing without fail. For chief of Pw-1.

Call on : 22.06.2022.

Sd/-

1st Addl. Civil Judge & JMFC,
Kaduru.