

19 CS DJ 603/20
RAJAN SINGH Vs. ROSHAN

24.03.2023

Present: Sh. Mohit Singh, Ld. Counsel for Plaintiff.
Sh. Himanshu Jain, Ld. Counsel for defendant no.1.
Defendant no.2 already Ex-parte.

Matter is listed for reply/arguments on application under Order 26 Rule 9 CPC, admission/denial of documents and framing of issues.

It is submitted by Ld. Counsel for defendant no.1 that defendant no.1 is not in contact with her and one last opportunity may be granted to either contact her or the Court may issue court notice to her.

It is noted that on the previous date as well i.e. 21.01.2023, the same submission was put forth on behalf of defendant no.1 and matter was adjourned, subject to cost of Rs.2,000/- which was to be paid to the plaintiff, which has also not been paid as yet.

It is noted that already two months time was granted to defendant no.1 to do the needful of filing the affidavit of admission/denial of document as well as reply to application under Order 26 Rule 9 CPC, which has not been done. The Court cannot embark upon an exercise to issue notice to defendant no.1 when as per the record she already has the knowledge of the proceedings before the court and the counsel is also appearing.

Ld. Counsel for plaintiff has raised strong objection to the adjournment sought for compliance of the previous order.

In the light of the observations made in the order dated 21.01.2023 as well as the submissions of Ld. Counsel for defendant no.1

that he is not in contact with her, I deem it expedient to proceed further by striking the defence of defendant no.1 for non-payment of the cost. Ordered accordingly.

In so far as admission/denial of documents is concerned, plaintiff has admitted one document of the defendant, but, it is noted that the said document is a judgment of High Court of Delhi which was filed as a reference case law and which is not the document having any bearing on the merits of the dispute. Thus, there is no requirement to conduct admission/denial of documents as all the other documents have been denied.

Also, since the defence of defendant no.1 has already been struck off, there is no requirement to frame formal issues. Plaintiff can straightaway lead the evidence and defendant no.1 will be having a limited right to cross-examine the plaintiff's evidence.

List now for plaintiff's evidence on **27.05.2023**.

(Navjeet Budhiraja)
ADJ-03/South-East District
Saket Courts, New Delhi/24.03.2023