

O.S.92/2017

ORDER ON I.A.VI

The plaintiff filed this application under Order 14 Rule 5 of C.P.C., seeking for deleting issues No.3, 4 and 6 which are on the defendants to prove the fact. In memorandum of facts, the learned counsel for the plaintiff mentioned that, though the defendants have asked the relief of counter claim, but they have not paid necessary and required court fee. Therefore, such relief cannot be granted. Hence, prays to delete the issues.

2. Per contra, the 1st defendant filed objections stating that the explanation shown in the memorandum of facts is the imaginary and illusory, because the application shall not be considered since necessary court fee has been paid by them on counter claim. Hence, prayed to reject the application.

3. Heard. The application is filed to delete issues No.3, 4 and 6. On the other hand, the 1st defendant has taken contention that he already paid necessary court fee because the particular sentence mentioned in the objections in Kannada runs as below:

"ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದ ವಿವಾದಾಂಶ ಕ್ರಮ ಸಂಖ್ಯೆ 3 ಮತ್ತು 4 ರ ವಿವಾದಾಂಶಗಳ ಕುರಿತು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ದಿನಾಂಕ 21.09.2021 ರಂದು ಆದೇಶವನ್ನು ಮಾಡಿರುವ ಕ್ರಮವೇನೆಂದರೆ ಪ್ರತಿವಾದಿಯರು ಕೋರಿರುವ ನಷ್ಟ ಪರಿಹಾರಕ್ಕೆ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದ ಶುಲ್ಕವನ್ನು ಪಾವತಿ ಮಾಡದಿರುವುದರಿಂದ ವಿವಾದಾಂಶ 4 ನ್ನು ಪರಿಗಣಿಸಲು ಬರುವುದಿಲ್ಲ..."

Therefore, the defendants have taken specific contention of payment of necessary court fee. On the other hand, the learned counsel for the plaintiff submits that in spite of sufficient time is given to the defendants, necessary court fee on relief of counter claim is not paid.

Office is hereby directed to verify to confirm the payment of court fee by the defendants on counter claim, then only absolute order may be passed.

For verification by the office regarding payment of court fee by the defendants on counter claim, call on 20.08.2024.

Senior C.J. & JMFC.,
Nanjangud.

27.07.2024