

order

1. Perused application, saw & read.
Heard arguments of both the parties at length.
It is prayed that suit be dismissed & plaintiff
be prosecuted u/s 420 of IPC.
2. It is to note that Rule 4 of order ~~XIV~~ ~~of~~ CPC,
is applicable to both parties and Rule 6 of
order ~~XIII~~ of CPC is about pronouncing
Judgment on admission. Both of these
provisions are not helpful to dismiss the
suit. Plaintiff B. Id. adv. was present
on last date & was willing to lead evidence
however he submitted that due misc.
applications by present defendant is delaying
his evidence. Considering the record,
when Id. adv. for plaintiff is present &
taking steps, the suit cannot be dismissed.
3. Mutation extract is false according to defendant.
According to him mutation entry no. 6167 is
correct and 6168 is wrong. It is to note
that which mutation entry is genuine
is a matter of fact. Prosecution cannot
be launched on the basis of application,
which is filed without affidavit and without
any proof. It is natural for either party
to place their case as correct, however that
does not mean other party is fraudulent
that too without any evidence and adji-
udication on merit. Also permanent
stay cannot be granted without hearing.

Also without hearing ² on merits
it cannot be said that pleading
is frivolous or not. Further regarding
allegation of non existence of plaintiff's
photo ID proof is already called
therefore present application is
devoid of merit, hence refused
refused.

H RANDESON
Rahafy
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