

ORDER BELOW EXH.227 IN R.C.S. NO. 215/2004

1] The present application filed by the defendant No.3 with prayer to examine defendant No.18 who has filed counter claim to the original suit. The present defendant No.3 has filed the present application in person. He has made certain allegations against the learned advocate for the plaintiff as well as learned advocate for the defendant Nos.10 to 17. He further alleged that these both learned advocates concealed counter claim filed on behalf of their client. The defendant No.13 has filed the examination-in-chief in order to avoid evidence of plaintiff in the counter claim (i.e. defendant No.18). Hence, he prayed to issue witness summons to defendant No.18 Kamal Vitthalsing Pardeshi who is plaintiff in the counter claim for her examination.

2] No say filed by other side.

3] The defendant No.3 present in person and submitted that as the Kamal Vitthalsing Pardeshi is avoiding to remain present before the Court issue witness summons to her. The learned advocate for the plaintiff and other defendants remained absent. At this stage, it is worthwhile to mention that party to the suit cannot compel another party to depose in the Court. It is the choice of the parties to either led oral evidence or not. If, party did not enter in the witness-box, then other side is having right to argue on the said point by taking re-course of Section 114 of Indian Evidence Act. There is no provision in the law by which the party to the suit can be compelled to become witness. Therefore, the relief claimed by the defendant No.3 is itself not maintainable.

4] It is also worthwhile to mention that the plaintiff has already closed his evidence. The defendant Nos. 2 to 4 also closed their evidence. Thereafter, it seems that defendant Nos.10 to 19 are impleaded in the suit. The defendant Nos.18 and 19 filed counter claim vide Exh.156. Thereafter, not only the plaintiff but also defendant Nos.2 to 4 has closed their evidence by filing pursis. Thereafter, on behalf of defendant Nos. 10 to 17 the defendant No.13 filed his examination-in-chief on record. The matter is filed for cross-examination of defendant No.13. The Kamal Vitthalsing Pardeshi is the defendant No.18, therefore naturally the turn of defendant No.18 is yet to come to led oral evidence. It seems that as the defendant No.3 is not having knowledge of law, he is moved the present application. Though, the defendant No.3 was insisted to appoint the advocate to conduct his matter, still he is not ready for the same. He is also not ready to take help of advocate on behalf of legal aid. In such circumstances, it seems that the defendant No.3 has filed this application as per his own wish knowledge.

5] As stated above the basically application is itself not maintainable and deserves to be rejected. Accordingly, following order is passed.

O R D E R

The application (Exh.227) stand rejected.

Dictated and pronounced in open Court.

Sd/-

Shrigonda.
Date : 09/08/2018.

(K. M. Kayangude)
Civil Judge, Senior Division,
Shrigonda.