

CNR No. MHGA090003682018



IN THE COURT OF JOINT CIVIL JUDGE (JUNIOR DIVISION), CHAMORSHI
(Presided Over by Diksha D. Vighne)

Other Misc.Appln./23/2018

Prabhakar Nakatu Satpute

Applicant

-Versus-

Premila Murli Barlawar

Non-applicant

Appearance:- Advocate for Applicant :- Shri. D.A.Dhodare
Advocate for Non-applicant :- Shri. D.V. Donadkar

Order Below Exh.40
(Passed on 29/11/2023)

This is an application for grant of permission to take cross-examination of applicant's witness.

2. Perused application and say thereon. It is stated in the application that applicant has filed this application and non-applicant had filed her reply. But, thereafter non-applicant was not remained present on fixed dates for court proceeding. Therefore, advocate of non-applicant Shri. Donadkar had filed purshis at Exh. 28 of not receiving information. However, it is stated that, applicant wants to continue this proceeding by advocate shri. Donadkar therefore she has filed this application for grant of permission to take cross-examination of applicant's witness.

3. The learned advocate for applicant has filed his reply and stated that there is no justified reason for this application. There is no specific reason mentioned in the application for not appearing for cross-examination of applicant's witness. Once, learned advocate has filed purshis that he has no information from his client then he has to file Vakalatnama for appearing on behalf of that client. Therefore, this application is unlawful. This application does not bear the signature of non-applicant. This application is baseless. Thus, he has prayed for rejection of this application.

4. Perused application and say thereon. Heard, both parties. It is seen from the record that, on the day of examination of applicant learned advocate for non-applicant was appeared and filed purshis at Exh. 28 that he has no instruction from his client. Therefore, there was no cross-examination of applicant's witness no.1. The same reason has mentioned by advocate of non-applicant that due to no instruction from his client he had filed purshis at Exh. 28. After filing say by learned advocate for applicant, the non-applicant has filed new Vakalatnama in which advocate Shri. Donadkar is appearing for non-applicant. This court had ask non-applicant why she was not appearing before this court in this case. That time, she told that she had no knowledge about continuation of this case and she only knew about proceeding before Hon'ble District Court, Gadchiroli. It is seen from the submission of non-applicant and her advocate that non-applicant is a illiterate layman and due to her illiteracy she was unable to appear in this case. However, when she got information about continuation of this case, she had meet her advocate and engage him to proceed this case. Even though there is no specific reason

mentioned in the application for not appearing of non applicant for taking cross-examination of applicant's witness no.1, her right to take cross-examination of A.W.-1 cannot be taken away because her right is not closed by order. As well as if the permission for taking cross-examination is not granted then it will cause prejudice to the non-applicant because she will not received opportunity to take her defence. Thus, considering aforesaid reason in the interest of justice this application shall be allow by imposing certain cost. Thus, I pass following order.

ORDER

1. Application is allowed subject to cost of Rs. 500/- payable to applicant by non-applicant.
2. Non-applicant is directed to take cross-examination of applicant witness no.1 on 14-12-2023 without fail.
3. If the non-applicant is failed on 14-12-2023 to cross-examined applicant witness no.1 then this order will be vacated automatically.

Date : 29-11-2023.

Sd/-
(Diksha D. Vighne)
Jt. Civil Judge (Jr.Dn.)
Chamorshi