


MHLA050002302021	<u>Order below Exh.45 in R.C.S.No.11/2021</u>
	<u>Bhagirathabai</u> <u>Vs.</u> <u>Sub-Divisional Officer & Ors.</u>

The application is filed by the plaintiff with a contention that, the suit is filed for perpetual injunction wherein the defendants appeared and filed their written statement. Defendant No.2 has not stated in the written statement that, he withdrew the compensation amount. The matter is kept on hearing board and the plaintiff wish to examine the branch manager of the State Bank of India to put before the Court record of the compensation and therefore it is prayed that, the bank manager of the State Bank of India may be permitted to appear as witness for the plaintiff before the plaintiff.

2. Say is filed by defendant No.2 and it is contended that, already the partition suit is pending between the parties. The burden to prove the contents in the plaint are upon the plaintiff. The plaintiff has not given any information about suppression of material facts by defendant No.2. The plaintiff can lead her own evidence and has to take permission of the Court before leading evidence of other witness. So it is prayed that, the application may be rejected being reasonless.

3. Heard learned Advocates for the respective parties.

4. Learned Advocate for the plaintiff submitted that, witness of the bank is important, so as to bring the record before the Court and the facts which are not pleaded in the written

statement by defendant No.2. Whereas learned Advocate for the defendant No.2, submitted that, as per Order-XVIII Rule-1 of C.P.C. the plaintiff, if the defendant has admitted certain facts, then the right to begin can be applied.

5. As per Order-18 Rule-3A of the C.P.C., if the party himself wishes to appear as a witness, he shall so appear before any other witness on his behalf has been examined, unless the Court for reasons to be recorded, permits him to appear as his own witness at a later stage.

6. The plaintiff has mentioned that she has a claim in the compensation amount and huge amount has been disbursed by the defendant No.1 in the name of defendant No.2 which is lying with the State Bank of India. The plaintiff had filed an application below Exh.43, requesting to submit the account extract of the State Bank Of India, Branch-Shirur-Anantpal from the 2018. The application was decided and was rejected with an observation that, the plaintiff is at liberty to adduce evidence of branch manager by issuing summons to him.

7. As far as considering the written statement of defendant No.2, it is nowhere mentioned that the amount is credited to his account and is withdrawn by him. The claim is regarding the amount and the right of the plaintiff in it. So if any amount is credited to the account of defendant No.2 that has to be brought before the Court. The earlier application of the plaintiff

filed below Exh.43 was rejected being premature. Now the plaintiff wish to examine S.B.I. Manager with all his documents regarding the matter. If at all he gives evidence and produce the documents, the position would be much clear to ascertain whether would the plaintiff lead the evidence of her own and her evidence would be restricted, if at all given, regarding her claim. So the permission is granted to the plaintiff to lead the evidence of other witness before herself as per Order-XVIII Rule-3A of the Civil Procedure Code.

Sd/-

(S.N.Sarde)

Civil Judge Sr. Div., Ahmedpur.

Date:12/08/2024.