



Order below Exh.50 in Spl.C.S.No.29/2019

[Nirmala & Ors. ..Vs.. Surekha & Ors.]

The application is filed by the plaintiff contending that, he filed his examination-in-chief on 06/03/2024 below Exh.43. Defendants filed adjournment applications below Exhs.44 and 47 to adjourn the matter. The plaintiff is a farmer and could not remain present on some dates. On 19/08/2024 his evidence is filed. So he submitted that, the order passed to file the affidavit of the plaintiff may be set-aside.

2. Say is filed by the defendant. According to him, the affidavit in-lieu of examination-in-chief is filed on 12/10/2023 and since then matter is pending for the cross-examination. The plaintiff deliberately avoid to attend the Court. So, his evidence is filed on 19/08/2024. The order may not be set-aside and the application may be rejected.

3. Heard Advocate Shri.Shelke for the plaintiff and Shri.Patil for the defendant.

4. On the perusal of the roznama, it is seen that, the plaintiff filed his affidavit on 06/03/2024 below Exh.41. The plaintiff also filed list of witness on 06/03/2024 below Exh.42. The defendant filed adjournment application at Exhs.44 and 47 whereas the plaintiff filed the adjournment application at Exhs.45, 46, 48.

5. As per Order-XVII Rule-1, the Court has a discretion to grant adjournment at any stage of the suit subject to

satisfaction that, sufficient reason is given by the parties. This particular first part of Rule-1 of Order-XVII is very much utilised by the parties but the proviso to Rule-1 is forgotten. It says that, no such adjournment shall be granted more than three times to a party during hearing of the suit. So, it is very much clear that, in all the tenure of the hearing of the suit, a party can file an application to adjourn the matter only thrice and the Court may adjourn the hearing on such applications. No fourth application for the adjournment is maintainable as per Order-XVII Rule-1 of the C.P.C.

6. Both the plaintiff and defendants have availed their concession granted as per Order-XVII Rule-1 of the C.P.C. after filing the examination-in-chief of the plaintiff witness and as such they cannot claim any adjournment to adjourn the hearing. On each and every date the matter shall be conducted. Both the parties are directed to file undertaking that, they shall not adjourn the hearing in this matter as already they have availed the concession mentioned above.

7. There is no question to move forward to Rule-2 of Order-XVII in this matter as Rule-2 is the continuation of Rule-1 and the compensation/costs for the concession availed by the parties. Therefore, above directions, I pass the following order -

ORDER

The application is allowed subject to costs of Rs.300/- to be paid to the defendants and subject to filing of the undertaking by the parties.

Sd/-

Date:14/11/2024.

[S.N.Sarde]

Civil Judge Sr. Div.,Ahmedpur.