

MHLA050010022017



Special Civil Suit No. 09/2017

Order below Exh.383

Defendant No.6 has filed this application for permission to cross-examine plaintiff No.1.

2) The plaintiffs have given say on this application and taken strong objection. Other defendants have not given say on this application. Heard advocates for defendant No.6 and plaintiffs.

3) It is submitted by advocate for defendant No.6 that this application is filed under Order-18 Rule-17 and Section 151 of the Code of Civil Procedure to recall and examine the witness, i.e. plaintiff No.1. Defendant No.6 is mentally affected person since year 1988 and he was undergoing the treatment at Miraj. Previously the cross-examination of plaintiff No.1 was taken by the advocate of defendant No.6, but some such facts were not brought on record by way of the cross-examination. Therefore, permission to cross-examine the plaintiff No.1 may be given. It is argued by advocate for the plaintiff that previously the opportunity to cross-examine plaintiff No.1 was given to defendant No.6 and defendant No.6 has taken cross-examination. Now it will not be ground that defendant No.6 will become entitle to cross-examine plaintiff No.1 as he has appointed new advocate.

4) From the record it is seen that affidavit of examination-in-chief of plaintiff No.1 is submitted at Exhibit-73. Defendant No.6 has cross examined plaintiff No.1 through his advocate Shri J. U. Poul. Advocate B.B. Kshirsagar has now appeared for defendant No.6. Order-18 Rule-17 of the C.P.C. empowers the court to recall any witness who has been examined and may put such questions to him as the court thinks fit. Thus, if the court has any query in the matter then the court itself recalls the witness and put any question as the court thinks fit. This Order and Rule does not provide any entitlement to any party to recall the witness who has been examined previously. Defendant No.6 was given full opportunity to cross examine plaintiff No.1 at Exhibit-73. Defendant No.6 can not take opportunity to cross-examine the witness again for the questions which were not inadvertently put to the plaintiff No.1 in his cross-examination. Hence this application is liable for rejection. In the result I pass the following order :

Order

Application is rejected.

Date : 8-8-2022

(P.A. Savadikar),
Civil Judge S.D., Ahmedpur
District Latur.