



R.C.S. No. 394/2014
Rajkumar Vs. Prabhavati & Ors.

ORDER BELOW EXH. 93

1. The present application is filed by the defendants to set aside the no cross order passed below Exh. 60.
2. In short, it is the contention of defendants that cross-examination of the plaintiff is partly recorded. Thereafter, further cross-examination is closed by the Court. One offence under Section 302 of the Indian Penal Code came to be registered against the defendants. Therefore, for several days, they were in police custody and magisterial custody. Due to which necessary information and documents not received to the defendants and they could not cross-examine the plaintiff. Matter is in respect of immovable property. Hence, prayed to allow the application.
3. The plaintiff filed say and opposed the application contending that affidavit of examination-in-chief is filed on 27.07.2017. Partly cross-examination of the plaintiff is recorded. The defendants severally sought adjournments. The defendants deliberately delay the matter. Reasons mentioned in the application is false one.
4. Heard both the parties. Perused the R & P. It appears that affidavit of the plaintiff is filed on 27.07.2017 and the matter was posted for cross-examination. But, thereafter, the defendants

filed an application for Court Commissioner on 10.10.2017 and same came to be decided on 09.01.2018. Thereafter, both the parties have sought adjournment on various grounds. Moreover, the cross-examination was to be recored in presence of defendants as the identity of defendant no. 1 is in question. On this ground also, the adjournments were sought. Thereafter, cross-examination of the plaintiff is partly recorded on 30.08.2018.

5. Meanwhile, the matter was also kept in Lok-Nyayalay for the compromise; but, the compromise could not taken place and the matter again posted for cross. Thereafter, on 19.10.2019 no cross order came to be passed.

6. If all above facts are taken into consideration, then it appears that on one or other reason, the matter is adjourned. Even the efforts of compromise also fails in the matter. Considering the reason mentioned in the application about the FIR under Section 302 of the Indian Penal Code against the defendants, it is necessary to grant one opportunity to the defendants so that the matter can be decide on merit. No harm will cause to the plaintiff, if the application came to be allowed as partly cross-examination is already recorded.

7. Further, the plaintiff can be awarded with costs for the delay to cross-examine by defendants. The matter is in respect of immovable property and valuable rights of the parties are involved in it. Therefore, the application deserves to be allowed. Hence, I pass the following order:

ORDER

1. The application is allowed subject to costs of Rs. 500/- (In words: Rupees Five Hundred only).
(Dictated and pronounced in open Court.)

Place : Nilanga.
Date : 05.01.2021.

(R.P. Kulkarni.)
Civil Judge, S.D., Nilanga.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same, word to word, as per the original Order.

Name of the Stenographer	:-	A.P. Khatavkar
Name of the Court	:-	R.P. Kulkarni, Civil Judge, S.D., Nilanga.
Date of Order	:-	05.01.2021
Order signed by the Presiding Officer on	:-	05.01.2021
Order uploaded on	:-	05.01.2021