



CNR No.MHNG100003582015
R.C.S. No.31/2015
(Old R.C.S. No.1149/2008)
Sushila+2 Vs. Soma+1

ORDER BELOW EXH. 89

(Order passed on 23rd day of March, 2021)

[01] This is an application filed by plaintiffs for permission to lead evidence by setting aside the evidence close order dt.11.01.2018.

[02] Perused application and say. Heard.

[03] The suit is old one of the year 2008. Since long same was pending for evidence of P.W.No.2, however, as despite of granting sufficient opportunity, the plaintiff failed to lead the evidence and hence, vide Order dt.11.01.2018 by closing the side of plaintiff the matter came to be fixed for evidence of defendants. By way of this application, it has been contended that initially the matter was pending before the court of Civil Judge Senior Division Nagpur. Thereafter, the matter has been transferred to C.J.J.D. Umrer. Meanwhile the plaintiffs have changed the counsel. After engaging new counsel, the plaintiffs applied for amendment of pleading. Same was partly allowed. Meanwhile, again plaintiff preferred Writ Petition No.2093/2016 before Hon'ble High Court. It has been contended that due to all over circumstances plaintiffs couldn't lead the evidence of P.W.No.2. It has been contended that the material rights of plaintiffs are involved in the matter. Thus, plaintiffs prayed for allowing the application.

[04] Defendant no.1 has opposed the application by submitting

that the matter is old one, however, the plaintiffs are prolonging the case unnecessarily. It has been contended that the suit claim instituted by plaintiffs is not tenable as per law. Thus, defendant no.1 prayed for rejection of the application with costs. Considering the submission made by both sides, if we perused the record, admittedly recently this suit has been transferred to this court from the file of Jt.Civil Judge Junior Division, Umred. After receiving the matter this court has disposed of application Exh.102 to 104 for brining LR's on record. Also disposed of the application Exh.88 regarding tenability of suit. Considering the nature of suit it seems that for deciding the suit on merit it is necessary to grant an opportunity for leading evidence to both plaintiffs and defendants. No doubt there is delay on the part of plaintiffs, however, mere delay is not the ground for rejection of the application. Hence, in the interest of justice and for deciding the suit on merit, I proceed to pass the following order.

ORDER

- [01] Application (Exh.89) is allowed subject to costs of Rs.1,000/- (Rs. One Thousand only) payable to defendant no.1.
- [02] On payment of costs plaintiffs be permitted to lead the evidence of P.W.No.2.
- [03] Matter is old one of the year 2008, hence, both parties to expedite the same.

Date : 23.03.2021

[S.K. Fokmare]
Civil Judge Senior Division
Umrer.

Certificate

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

Name of Stenographer : **Mr. Mahendranath D. Nagpure.**
Stenographer (Grade III)

Court Name : Civil Judge Senior Division, Umrer

Order signed on : 23/03/2021

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CIVIL CASES/Permission to lead evidence/