

Spl. C.S.No. 100/2017

**ORDER ON THE POINT AS TO WHETHER PHOTO COPY OF
DOCUMENT CAN BE SHOWN TO D.W. NO. 1 WITHOUT FIRST
PRODUCING IT ON RECORD BELOW EXH.120**

1. On 14.06.2023, Ld. Advocate for plaintiff expressed intention to confront defendant/this witness with a photocopy of one document without first producing it on record. Ld. Advocate for defendant took objection to such course of confronting document. Therefore, my Ld. Predecessor deferred cross examination and adjourned suit for necessary order.

2. I heard both Ld. Advocates on this point. Ld. Advocate for plaintiff has referred to provisions of Order 7 Rule 14(4) of Code of Civil Procedure. In view of the decision in Salem Advocate Bar Association Vs. Union Of India, AIR 2005 SC 3353 relied upon by him, words “plaintiff’s witnesses” have to be read as “defendant’s witnesses”. Thus the objections raised by Ld. Advocate for defendant to the effect that said provisions apply only to plaintiff’s witnesses, can not be countenanced.

3. Another objection from defendant’s side is that without production of a document on record first, witness can not be confronted with such document. Ld. Advocate for plaintiff submits that such requirement is not applicable to a document which is produced for cross examination as per Order 7 rule 14(4) of C.P.C.. He has relied upon decision in T.M. Mohana Vs. V. Kannan., AIR 1984 Madras 14.

4. Perusal of it shows that in a suit for recovery of money, defendant tried to confront plaintiff with a document in cross examination, without producing it on record. It was objected by plaintiff’s side. The Court did not allow defendant to adopt such course and passed order to that effect. It was challenged before Hon’ble High Court. Provisions of Order 7 Rule 8 and Order 13 of C.P.C. were considered in detail. Hon’ble High Court observed that “From the above decisions also, it is clear that where the

document relied upon is intended to be put to a witness in the course of his cross examination, it is not necessary that such a document should be disclosed earlier or that leave of Court should be obtained for so producing the documents to the witnesses in the course of cross examination, Having regard to these considerations, the Court below was in error when it declined to permit the petitioner to confront the respondent with the documents produced by the petitioner in the course of the cross examination of the respondent without an application to receive the document after notice to the respondent. Consequently, the Civil Revision Petition is allowed, but there will be no order as to costs”.

5. In the present suit, plaintiff side wants to confront defendant in cross examination with a photo copy of document and not with original. When such document is shown to defendant, defendant can go through it and answer questions. If it is admitted, photo copy can be taken on record. Therefore, for the above reasons, I pass following order : -

ORDER

Plaintiff side is allowed to confront defendant/D.W. No. 1 in her cross examination with that photo copy of document, without first producing it on record, with which plaintiff intends to confront defendant.

Umred.
Dated: 12.09.2024.

[S. G. Landge]
Civil Judge Sr. Dn., Umred,
Dist. Nagpur.

Certificate

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

Name of Stenographer : Mrs. Kavita M. Balpande
Stenographer (Gr.II)