

ORDER BELOW EXH. 39 IN R.C.S. NO. 279/2018

Plaintiff has filed present application for recalling plaintiff as witness. Application filed by plaintiff in present suit at Exh. 37 for leading secondary evidence in respect of documents about suit property has been allowed. Plaintiff is executing party to said documents adduced in secondary evidence. Before, leading secondary evidence cross examination of plaintiff has been completed therefore, in order to examine plaintiff in respect of said documents. Plaintiff prayed recalling him as witness.

2. Defendant has filed his say upon over leaf of the application and denied the contentions made in the application and states that plaintiff has not mentioned in the application under which provision present application is filed. Cross examination of plaintiff has been completed. Sufficient opportunity to the plaintiff as to document has been given during his cross examination therefore, there is no need to recall plaintiff as witness. Hence, prayed for rejection of application.

3. Upon perusal of the record of the case it reveals that, application at Exh. 37 was filed in respect of document filed by plaintiff along with list at Exh. 21 Sr.No.1 i.e. agreement dt. 05/03/2009. Said document was exhibited as Exh. 30 for the purpose of location during chief examination of the plaintiff. Therefore, in order to prove contents of said document it is required to recall plaintiff witness. If, the application is allowed further controversy between the parties would be determine and if the application is rejected it would amount to infringement of rights of plaintiff as to suit property. Therefore, in order to determine real question in controversy between the parties it would be justifiable to allow the application for the purpose of examination of plaintiff in respect of document filed at Exh. 30 only. Hence, the order.

ORDER

1. Application is allowed.
2. Plaintiff is directed to remain present for examination in respect of document at Exh. 30.

Date: 28-11-2023
Place- Daund

(A.G.Kulkarni)
3rd Jt. C.J.J.D., Daund
Tq. Daund, Dist. Pune