

ORDER BELOW EXH. No.31

This is an application moved by Non-applicant to set aside Evidence closed order dated 13/06/2024 and for permission to take his evidence on record. According to him, on previous date due to illness, he could not attend the Court and lead evidence, therefore, his evidence was closed. His absenty was not intentional. If he will not permitted to lead evidence, then great prejudice will cause to him. Therefore, he prayed to allow the application. The applicant filed by say and strongly objected to the application that non-applicant taken a false defence of illness. He did not produce any medical certificate. Therefore, she prayed to reject the application.

2] I have gone through the records and proceeding. Record shows that, in present matter, the applicant closed her evidence and matter was posted for evidence of non-applicant since 10/02/2023. Thereafter, non-applicant on 23/03/2023 filed his evidence affidavit and remained absent thereafter. Thereafter, evidence closed order was passed on 13/06/2024. Therefore, record shows that sufficient time was granted to non-applicant but he deliberately failed to lead evidence. In present matter, the applicant claimed maintenance and other reliefs under PWDV Act, therefore, in such situation it is necessary to give chance to non-applicant to contest the application on merits. However, considering the negligence on the part of non-applicant while

conducting the matter heavy cost need to be imposed on the non-applicant. Considering the long delay caused by non-applicant cost of Rs.5000/- seems to be just and proper. Hence, the following order.

:: ORDER ::

1. The application is allowed and evidence closed order against non-applicant is set aside, subject to costs of Rs. 5,000/- (Rupees five thousand only) to be paid to applicant on or before next date.
2. The non-applicant is directed to conduct the matter with due diligence and without taking any unnecessary adjournments.

Shriwardhan
Date: 15.03.2025

(Shri. A. S. Satote)
Civil Judge Junior Division,
Shriwardhan