

ORDER BELOW EXH.104

Present application is filed on behalf of defendant no. 1 for setting aside 'evidence closed' order. The plaintiff resisted the application by filing say.

2 It has been contended on behalf of defendant no.1 that due to unavoidable circumstances and problems defendant no. 1 would not able to filed evidence affidavit. Defendant no. 1 willing to produce further oral and documentary evidence. If such opportunity is granted to the defendant it will help to decide the case on the merit. Hence prayed to set aside 'evidence closed' order dated 20/02/2023. The plaintiff filed his say at Exh. 106 and submitted that defendant no. 1 filed this false and frivolous application in the court. The plaintiff has closed his evidence on 03/11/2022 since then time to time ample opportunity was granted but defendant no. 1 failed to produce evidence. Hence evidence was closed on 20/02/2023. Hence prayed to reject the application. In alternative if court decided to allow the application then heavy cost should imposed on the defendant.

3 Heard both side. Perused application and say. Undoubtedly case was adjourn from time to time for evidence of defendant no. 1 and defendant no. 1 has failed to adduced evidence. Already evidence of the plaintiff is over. To decide case on the merit it is important to give fair opportunity for adducing evidence to defendant no. 1. Such opportunity is essential for avoiding multiplicity of litigations and decision at once on real controversy between the parties. Inconvenience of the plaintiff can be compensated in cost. No prejudice is likely to be caused to the plaintiff. Therefore the application deserves to be allowed in the interest of justice. Hence I proceed to pass the following order.

ORDER

1. The application is allowed.
2. 'Evidence closed' order is set aside subject to Cost of Rs.500/-.
3. Defendant no. 1 is directed to pay cost to the plaintiff.

4. Taking into account the stage of the suit and the fact that it is of the year 2011, the parties are directed to conduct the suit on priority.
5. Both parties to take note.

Date : 08.06.2023.

(P. R. Bhosale)
Civil Judge, Junior Division,
Lanja.

CERTIFICATE

I affirm that the contents of this pdf file Order are same words as per original Order,

Case No : R.C.S. No 23 of 2011

Name of the Stenographer: S. D. Chavan

Court Name: Civil & Criminal Court, Lanja,
Dist.Ratnagiri,

Date of decision : 08/06/2023.

Judgment/Order signed by P.O.on : 08/06/2023

Judgment/Order uploaded on : 09/06/2023.