

ORDER BELOW Exh.- 53

This is an application filed by applicant no.4 and 5 for dismissal of dispute for non prosecution.

It is contention of the applicant's that after framing of issues and after list of witness suit is posted for evidence. Though ample opportunity given to the disputant, the disputant has not filed the evidence on record. Moreover last chance granted by court to file evidence on record. Though, instead of filing the evidence on record disputant has moved an application for amendment of dispute. Hence, prayed for dismissal the dispute for non prosecution.

Opponent that is disputant filed say at Exh-54. Disputant denied all the contentions of the applicant. Disputant contents that, opponent No.4and5 are the main culprit. They helped to opponent No.1 to 3 for making forged receipt. Said receipt is very important according to ware house Act. Opponents by making fraudulent act deceive the disputant bank.

Therefore, to bring fact on record amendment regarding the bank transaction in between the opponent No.1,2 and 4,5 and other activities in relation to this suit is necessary. Opponent no.1 to 3 got a huge loan amount from the disputant bank. Therefore, before filing of evidence there is an important thing to carry out amendment. Adjournment application decided after both side of hearing, and on very next date disputant filed amendment application. Having knowledge of this situation opponent No.4 and 5 intentionally on next date not filed say and even not given adjournment application for filing say. Considering this situation opponent no 4,5 not having any right to say for dismissal of suit. Hence, prayed for dismissal of application of opponents No.4,5 with the costs.

Heard both sides at considerable length.

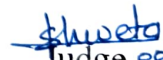
After perusal of record. It appears that the loan amount is very huge. Therefore, as per say of disputant bank, the little bit delay caused, to gather all connected information regarding the loan transaction and sanctioned amount how transfer in the different accounts by opponent No.1 and 2.

After considering the nature of suit it happens but natural. Therefore, it might be happened with every person like this kind of situation. Therefore, I think that, due to reasons mentioned in dismissal application filed by opponent No.4,5 suit will dismissed for want of prosecution. It is admitted position by disputant bank, the little bit delay caused by them to file an evidence on record but there are many reasons mentioned in their say about non filing evidence on record within time or on proposed date.

Therefore, I think that, mere non filing evidence on record on proposed date is not a ground for dismissal the suit. Therefore, application deserved to be dismissed. Hence I pass following order.

ORDER

- 1** Application is dismissed.
- 2** No order as to costs.


Judge 08/09/26

Co-operative Court
Shrirampur