

R.C.S. No. 188/2017
(Godabai Vs. Aasha)

Order below Exh.48
(Passed on 26th March, 2024)

This is an application filed by the defendant for grant of adjournment. It is contended by her learned advocate that the defendant is unable to attend the Court, due to some unavoidable circumstances. Hence, the matter be adjourned.

2. The application has been strongly resisted by the plaintiff by contending that already sufficient opportunities have been availed by the defendant for filing bank passbook and extracts. Therefore, the application be rejected by imposing heavy cost of Rs. 10,000/- for each date.

3. Perused the application and say alongwith the entire record. In view of the say filed by learned advocate for the plaintiff, it becomes necessary to peruse the record. The perusal of roznama shows that on 10.07.2023, the defendant was cross-examined by the plaintiff. During which, she showed her readiness to file copies of her bank passbook. Thereafter, the matter was fixed for filing such document by her. Thereafter, on 25.09.2023, she has filed copies of bank passbook. Again, the matter was adjourned due to the reason of her illness on account of her absence.

4. The perusal of roznama dtd. 08.01.2024 shows that the matter was adjourned for filing of extract of the bank passbook. However, on next date, the matter was adjourned as the defendant filed certain documents on record at Exh.46. During argument, learned advocate for defendant vehemently submitted that the copies of bank passbook have

already been filed on record by the defendant and no account extract was asked by the plaintiff. On it, learned advocate Mr. Kamble appearing for the plaintiff vehemently submitted that it was earlier resolved between the parties that the extracts of bank statement since opening of the bank account will also be filed by the defendant on next date and therefore, it has been reflected in the roznama dtd. 06.02.2024.

5. It is an admitted position that the bank statement has not been filed on record. The roznama shows that the matter was adjourned for cross-examination of the defendant. However, thereafter the defendant filed an application Exh.46 and submitted the copies of her bank passbook. It is also pertinent to mention here that the defendant during her cross-examination showed her readiness to file copies of her bank passbook, which are now filed on record. Therefore, if the plaintiff requires the production of extract of bank account since opening of the account, she may file necessary application for that. Moreover, if the defendant failed to file the documents as required by the plaintiff, adverse inference may be drawn against her.

6. Today, the matter has been fixed for cross-examination of the defendant. However, she is absent. Learned Advocate Mr. Yadav appearing for her behalf fairly submitted that he received her phone call at about 11.00 a.m. that she would attend the Court for cross-examination and now, her phone is not reachable. It shows that the defendant is reluctant for her cross-examination. Moreover, the roznama dtd. 17.02.2024 shows that she was absent. But she was present on 05.03.2024, which was the previous date in the matter. However, this Court was on leave and therefore, the matter could not be taken. Having regard to all these facts and circumstances and considering the old pendency of the matter, the defendant is hereby strictly directed to

remain present on next date, without fail to face her further cross-examination. At the same time, for her default to attend the matter on today and as the present application does not disclose any special reason for her absence. She is ordered to pay the cost of Rs.500/- payable to the plaintiff.

[Dictated and pronounced in open Court.]

Date:- 26.03.2024

(R. M. Bhende)
2nd Jt. Civil Judge, Jr. Dn., Wai