

ORDER BELOW EXH. 129

Read an application and the reply filed by plaintiffs at Exh. 131. Perused the record. Heard the learned counsel for plaintiffs Adv. Shri. P.S. Godse and the learned counsel for defendants Adv. Shri. P. K. Barsawade.

2. Defendant no. 1 filed this instant application and submitted that, during the course of evidence of plaintiff no.1, defendant no. 1 confronted the extract of grampanchayat property no. 1234 to the witness. At the same time, the witness answered as of correct and thereafter, the witness answered as of incorrect about the contents of gramapcnayat property no. 1234. However, the first answer of the witness has not been recorded at the time of evidence. Therefore, defendant no. 1 prayed to record the statement of the witness that the contents of extract of grampanchayat property no. 1234 is correct.

On the contrary, plaintiffs filed the reply at Exh. 131 and opposed to this application on the ground that, defendant no. 1 initially put suggestion to the witness that, there is the house of defendants in the city survey no. 260 and the witness answered as of correct. Thereafter, defendant no. 1 put another suggestion that, the city survey no. 260 is having grampanchayat property no. 1234 and thereafter, immediately, confronted the extract of grampanchayat property no. 1234 and at the same time, the witness answered that grampanchayat property no. 1234 is correct. Thereafter, defendant

no. 1 put suggestion regarding the contents of extract of grampanchayat property no. 1234 and thereafter, the witness answered about the contents of grampanchayat property no. 1234 as of incorrect. Defendant no. 1 immediately moved the instant application on the ground that, the witness answered regarding the contents of grampanchayat property no. 1234 as of correct and prayed to record such statement which is not in accordance with the provisions of the Evidence Act and therefore, prayed to reject the application.

3. On perusal of record, it appears that, before showing the extract of grampanchayat property no. 1234, defendant no. 1 put a suggestion to the witness that there is the house of defendants in city survey no. 260 and the witness answered as of correct and the same fact is recorded in the evidence. However, it is noticed that, prior to recording previous statement, the learned counsel for defendant no. 1 put another suggestion as the city survey no. 260 is having grampanchayat property no. 1234 and the witness answered as of correct and thereafter, before recording the said suggestion the learned counsel for defendant no. 1 put another suggestion that, the contents of extract of grampanchayat property no. 1234, are correct and the witness answered the said statement as of incorrect.

4. It also appears that, the learned counsel for defendant no. 1 frequently, put the suggestion before recording previous statement which is impermissible. The adverse party is required to put the suggestion to the witness after recording previous statement, but the adverse party has not taken precaution, therefore, it is unable to Court to notice about

the subsequent suggestion of the adverse party before recording previous statement. It also appears that, after recording previous statement the learned counsel for defendant no. 1 put another suggestion that, the contents of extract of grampanchayat property no. 1234, are correct to which the witness answered as of incorrect statement and therefore, the said suggestion has been recorded during the course of evidence.

Now, the learned counsel of defendant no. 1 has taken the objection that, he put the suggestion to the witness about the contents of extract of grampanchayat property no. 1234 and the witness initially answered as of correct and subsequently, he answered as of incorrect and therefore, it is required to record both the statement.

However, the Court can't record any suggestion put to the witness before recording previous statement. I found no substance in the submission of the learned counsel for defendant no.1. Moreover, it is directed to the adverse party to put their suggestion after recording previous statement. With this observations and directions, I pass the following order.

ORDER

1. The application is rejected.
2. Both the parties are directed to take note of it.

Vaduj
Date: 22.10.2024

(D.D. Fulzele)
Civil Judge Sr.Dn., Vaduj