

ORDER BELOW EXH. 28

(Date – 14/02/2024)

This application for adjournment is filed by defendant in second session. Plaintiff filed say. Heard learned counsel for plaintiff. Learned counsel of defendant not appeared.

2. It is mentioned in the application that, learned counsel for defendant have medical emergency therefore, left the court now he is unable to conduct the matter. Learned counsel for plaintiff strongly opposed the application. He has filed elaborate say by mentioning that, on same occasion when plaintiff came little late to the Court, Court has passed order and fixed the for no cross examination. When plaintiff filed the application of adjournment Rs.200/- cost imposed on him, however, no cost imposed on defendant, though he seeks more adjournment than plaintiff.

3. In the light of submission of learned counsel for plaintiff I have gone through the record which shown that, on 03/09/2021, 26/10/2021, 15/12/2021, 03/02/2022, 25/02/2022, 15/06/2022, 20/07/2022 the matter fixed for evidence of plaintiff/filing affidavit on behalf of plaintiff. However, not proceed. The evidence affidavit has been filed and chief examination conducted on 06/09/2022. Thereafter, on 17/10/2022, 29/11/2022, 04/01/2023, 03/01/2023, 21/01/2023, 14/03/2023, 29/03/2023, plaintiff present through his counsel and not in person. Thereafter, on 12/07/2023 when

the adjournment application had been filed by plaintiff cost of Rs.200/- had been imposed. However, till today that cost has not been deposited by the plaintiff. Thereafter, it is seen from the record that, plaintiff was not present on 30/08/2023, 04/10/2023, 01/11/2023. Thus, as per submission of learned counsel of plaintiff, record shown that various adjournment granted to defendant without imposing cost. Further it is also not seen that, matter was fixed for no cross order etc. Thus, record does not support submission of learned counsel of plaintiff. Therefore, considering the say, record and adjournment and age of the plaintiff, this application granted on cost of Rs.500/- as the witness is appeared in the Court however, learned counsel for defendant informed that, he will going to conduct the cross in second session, but not proceed for the same. Therefore, the witness who is of 86 years of age is required to wait in the Court till 04.00 pm. Hence, defendant is directed to pay cost of 500/- and proceed with the matter within two weeks from date of this order, hence, I proceed to pass following order :

ORDER

1. Application allowed on cost of Rs.500/-.
2. Plaintiff is directed to proceed without any adjournment from the date of this order.

Sd/-

(**Smt. T. M. Deshmukh-Naik**)

2nd Additional Judge,

Small Causes Court, Nagpur.

Date: 14/02/2024.