

T.S. - 1895/05 CNR – WBCC01003248-2005

Present: Sri Jayanta Koley, Judge, Bench-II. (WB00562)

Order 132

26.07.24

Today is fixed for hearing argument of this suit.

Plaintiff files hazira. A petition has been filed along with fresh vokalatnama by the defendant no 5 praying for recalling the order dtd 25.7.24 towards fixing the suit for hearing argument in order to provide her an opportunity to adduce evidence in respect of her counterclaim. Copy has been served. Objection has been raised. The other contesting defendants file hazira.

Heard the Ld. Advocates for both the sides.

It appears from the record that on 25.7.24 the suit was fixed for further cross examination of DW 2 as well as for recording of evidence of rest Dws. However the defendant no 5 remained absent on that date without taking any step for which after completion of the cross examination of DW 2 at the instance of the plaintiff, the instant suit was fixed today for hearing argument.

Upon hearing the submission advanced from both the sides with due consideration of the objection raised from the side of the plaintiffs vis a vis the fact that the defendant no 5 should be provided with a last opportunity to adduce evidence in support of her claim made in her counterclaim, I feel that the prayer of the defendant no 5 should be treated with liberal approach by allowing the same subject to compensating the plaintiff adequately in that respect.

Hence it is

Ordered

that the petition filed on behalf of the defendant no 5 this day is hereby allowed.

The order dtd 25.7.24 so far as it relates to closure of recording of evidence of DWs and fixing the suit for hearing argument is hereby recalled subject to payment of cost of Rs. 1000/- by the defendant no 5 in favour of the plaintiff fixing 29.8.24 for recording of evidence of rest Dws.

D/C by me

Judge

Judge 2nd Bench