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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 186/1980

TARUN KUMAR & ORS

..... Plaintiffs

Through: Mr. K. K. Bhuchar, Adv alongwith Mrs
Usha Kumar on behalf of plaintiff

versus

AJAY KUMAR & ORS

..... Defendants

Through: Ms. Neha T. Phookan, Adv for D2.
Ms. Ekta Sharma & Ms. Trisha Gupta,
Advs D3 & 4.
Mr. Rajiv Bahl, Adv for two LR's of D8

CORAM:

MS. VANDANA JAIN (DHJS) JOINT REGISTRAR(JUDICIAL)

ORDER

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05.04.2022

Cost of Rs 5,000/- imposed upon defendant No.3 on the last date paid to plaintiffs in the Court.

No affidavit of evidence filed on behalf of defendant No.3. Learned counsel for defendant No.3 submits that she has moved an application for considering the partial evidence of DW3- Mr Vijay Kumar (deceased defendant No.3) and same is lying under objections. She further submits that she has already served an advance copy of IA to plaintiffs. She seeks adjournment stating that the matter may be taken up after the listing and disposal of said application.

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Learned counsel for plaintiffs has vehemently opposed the adjournment and stated that numerous opportunities have already been granted to defendant No.3 to lead the evidence. He further submits that no affidavit has been placed on record till date and therefore, defendant No.3's evidence be closed.

I have heard the submissions of both the parties and have perused the record carefully.

Perusal of record shows that 6-7 adjournments have already been granted to defendant No.3 to lead evidence. Despite giving indulgence, no affidavit of evidence of D3 has been filed till date.

An application is stated to have been filed by defendant No.3 yesterday only which is not yet listed, which shows callous altitude of the party and their intention to delay the case. Had there been any bonafide intention to move any such application, it would have been filed well in time and not just a day before the case was listed for evidence. It is worthwhile to mention here that even on the last date of hearing, the conduct of defendant No.3 was noted and cost of Rs 5,000/- was imposed for not filing any affidavit. Today, the cost has been paid but still there is no affidavit.

The present case was instituted in the year 1980 and we are in the year 2022. It so appears that the application which is being referred to by learned counsel for defendant No.3 is an another attempt to delay the proceedings of the case as defendant No.3 had expired long back and the application could have been moved

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immediately thereafter. If not then, atleast the same could have been moved immediately after the last date of hearing i.e. on 06.01.2022. Though, no indulgence is warranted in the facts and circumstances, as discussed above, however, keeping in view the fact that LR's of deceased defendant No.3 wishes to get their application decided, one last and final opportunity is granted to lead evidence, subject to cost of Rs 1 Lac to be paid to plaintiffs.

Put up for recording of evidence of defendant No.3 on 08.07.2022.

VANDANA JAIN (DHJS)
JOINT REGISTRAR (JUDICIAL)

APRIL 5, 2022
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