

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 2256 OF 1998

Harinarayan G Bajaj & Anr ...Plaintiffs
Versus
Vijay Agarwal & Ors ...Defendants

Ms Sonal, i/b Vivek Sharma, for the Plaintiffs.
Mr Girish B Kedia, for Defendant No.1.

CORAM: G.S. PATEL, J
DATED: 28th November 2018

PC:-

1. PW3, Mr Akhil Dalal passed away before his cross-examination could be conducted and completed. All contentions are left open as to the evidentiary value and weight of the Evidence Affidavit filed by Mr Akhil Dalal and the documents produced through him in evidence.
2. PW2, Mr Rahul Bajaj is now to be cross-examined. The reason for allowing the cross-examination of PW3 earlier was on account of his health.
3. By consent, Ms Mili Thakkar who has recorded the cross-examination of an earlier witness is requested now to record the cross-examination of PW2 at her earliest convenience.

- (a) The Commissioner is at liberty to exercise discretion under Order XVIII Rule 4(4) of the Code of Civil Procedure 1908, to note the demeanour of the witnesses where necessary.
 - (b) All cross-examination shall be conducted strictly in question and answer form.
 - (c) The Commissioner will also be at liberty to direct that the whole or any part of the cross-examination should be video recorded for later reference of the court. Should that be done, the original audio visual recording will be submitted along with the Commissioner's Report to the Registry.
 - (d) Liberty to the parties as also to the Commissioner to apply in case of difficulty.
 - (e) All re-examination will be conducted only in court.
 - (f) Costs of the commission shall be borne equally by the parties.
 - (g) The Commissioner is not to permit any applications for adjournment on dates previously fixed, except where absolutely unavoidable. Counsel's inconvenience or unavailability does not constitute such unavoidability.
4. List the matter on 23rd January 2019 for directions and a status report including as to progress before the Commissioner.

(G. S. PATEL, J)