

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

SUIT NO.3 OF 2010

Mumtaz, daughter of Riyazuddin &
Wife of Suleman Khan & Anr. .. Plaintiffs
Vs.
Jamaluddin Riyazuddin Sheikh & Ors. .. Defendants

Mr.Omar Khaiyam Shaikh a/w Ms.Chaitali Chaudhary and Ms.Ankita Upadhyay for the plaintiff.
Ms.Tanya Barwal i/by M/s.M.P. Vashi & Associates for the defendant nos.1 to 5.

CORAM : R.D. DHANUKA, J.
DATE : 15th January 2019

P.C.:

. Learned counsel for the defendant nos.1 to 5 states that cross-examination of PW-1 would be completed in maximum two sessions. Statement is accepted.

2. Time to complete the cross-examination of PW-1 is extended till 4th February 2019. The learned Court Commissioner is directed to submit a report, in so far as the evidence of PW-1 is concerned, on or before 11th February 2019 with a copy to be served upon both the sides.

3. In so far as the affidavit in lieu of examination-in-chief of PW-2 is concerned, Mr.Shaikh, learned counsel for the plaintiffs states that though the affidavit in lieu of examination-in-chief is filed within the time prescribed by an order dated 30th November 2018, there is slight

delay in effecting the service of the copy of the said affidavit in lieu of examination-in-chief upon the defendants' advocate.

4. Learned counsel for the defendant nos.1 to 5 states that exemplary costs shall be imposed upon the plaintiffs for this delay in effecting the service of the copy of the said affidavit in lieu of examination-in-chief of PW-2. She however, does not dispute that the affidavit in lieu of examination-in-chief of PW-2 is filed within the time prescribed by an order dated 30th November 2018 passed by this Court. Evidence of PW-3 is admittedly not concluded. I am not inclined to pass any order of imposing the costs upon the plaintiffs for slight delay in effecting the service of the copy of the said affidavit in lieu of examination-in-chief of PW-2.

5. After conclusion of evidence of PW-1, the defendants shall proceed with the cross-examination of PW-2 at the earliest. In so far as the PW-2 is concerned, the learned Court Commissioner is directed to submit a report on or before 8th March 2019. Parties are directed to co-operate with each other and with the learned Court Commissioner in submitting a report within the time prescribed.

6. In so far as the documents sought to be relied upon by the PW-2 in the affidavit in lieu of the examination-in-chief is concerned, the learned counsel for the defendant nos.1 to 5 are directed to file their statement of admission and denial in respect of the said documents within one week from today with a copy to be served upon the plaintiffs' advocate simultaneously to enable the plaintiffs to take further steps in the event of the defendant nos.1 to 5 disputing the said documents.

7. Place the matter on board for 'Directions' on 28th January 2019.

R.D. DHANUKA, J.