
(2017) 10 RAJ CK 0035
RAJASTHAN HIGH COURT
Case No: 15913 of 2017

Smt. Aruna Sharma
W/o Shri Amarchand

APPELLANT

Vs

Dilawar Khan S/o Shri
Shamsher Khan

RESPONDENT

Date of Decision: Oct. 25, 2017

Acts Referred:

- Code of Civil Procedure, 1908, Section 148 - Enlargement of time

Hon'ble Judges: Alok Sharma

Bench: SINGLE BENCH

Advocate: Dr. P.C. Jain, Girraj Pd. Sharma, Arvind Gupta

Final Decision: Disposed

Judgement

1. Under challenge are the orders dated 21.3.2017 and 13.4.2017 passed by Sr. Civil Judge, Shahabad, District Baran.

2. By the order dated 21.3.2017, the permission to the petitioners-defendants (for short "defendants") to cross-examine the witnesses of the respondent-plaintiff (for short, "plaintiff") recalled under the court's order dated 22.2.2017 was withdrawn for non compliance of the conditions thereof. Subsequently on an application under Section 148 CPC having been made to extend the time for cross-examination of the witnesses of the plaintiff recalled under the court's order dated 22.2.2017 and recall the order dated 21.3.2017, trial court dismissed the said application under its order dated 13.4.2017.

3. Having heard the counsel for the defendant and the plaintiff at length and taking into consideration the fact that the grand son of the defendant was taken ill and is stated to have been hospitalized, in the interest of justice, I would quash and set- aside the orders

dated 21.3.2017 and 13.4.2017 and extend the time under trial court's order dated 22.2.2017 for cross- examination of the plaintiff's witnesses by a further period of 15 working days commencing today.

4. This Court is informed that proceedings in the underlying suit are fixed before the trial court on 28 th October, 2017. The plaintiff is directed to keep his witnesses in terms of the order dated 22.2.2017 passed by the trial court and modified hereinabove, ready for cross-examination on the said date. The defendants shall ensure that the plaintiff's witnesses are cross- examined forthwith commencing 28th October, 2017. In the event of the cross-examination of the plaintiff's witnesses not being completed on the said date, it be continued on day to day basis till completion of the cross-examination of all of plaintiff's witnesses recalled. On completion of the cross-examination of the plaintiff's witnesses, the defendants shall be under an obligation to file the affidavits in defence within 7 days and keep all their witnesses present for cross-examination within 7 working days thereafter. The trial court is directed to dispose of the suit after hearing the arguments of the counsel for the contesting parties within 4 weeks of the closure of the defendants' evidence.

5. Counsel for the parties on instructions, have submitted that no misc. application to stall the proceedings of trial before the trial court shall be filed by either of the parties. It is so directed.

6. The petition stands disposed of accordingly.