

Application No.7002 of 2015
in
C.S. No. 463 of 2012

PUSHPA SATHYANARAYANA, J.

This application has been filed by the applicant/defendant seeking to recall PW1 for the purpose of further cross examination, in a suit filed by the respondent/plaintiff, who is none other than the sister of the defendant, claiming damages.

2. It is stated in the affidavit that there was some confusion with respect to the documents marked as Exs.P2 and P3. The plaintiff has marked Exs.P2 and P3, which are totally different from what was originally meant to be marked. Therefore, due to oversight, questions have been asked by the applicant/defendant in the cross examination with respect to different documents and certain questions have been omitted to be put, regarding the actual documents filed. The reasons leading to filing of this application is explained in para No.3 of the affidavit filed in support of this application. This application has been taken out, after PW1's evidence was closed and PW2's cross examination is in progress.

3. Though it is a well settled principle that recalling the witnesses may not be a prerogative right of a party and cannot be ordered for the mere asking, in the interest of justice, the Court can always allow such applications.

4. The learned counsel for the respondent/plaintiff though vehemently opposed the application, contending that when the evidence of PW1 was already over and the second witness is in the box, the applicant/defendant cannot be allowed to recall the said witness, as stated above, in para No.3 of the affidavit, the applicant/defendant has explained the reasons for recalling PW1 for further cross, which seem to a justifiable one.

5. Inasmuch as the reasons stated by the applicant/defendant are satisfactory, this Court is inclined to allow the application. Accordingly, this application is ordered, as prayed for.

6. Registry is directed to place the papers before the learned Additional Master No.III to recall PW1 for the specific purpose of putting into questions, as mentioned in the affidavit filed in support of this application. The said exercise may be done after completing the cross examination of PW2.

7. Post the matter before the learned Additional Master No.III on 07.11.2016.

21.10.2016

vj2

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vj2

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