

A.Nos.2853 and 2854 of 2016
in
C.S.No.365 of 2013

M.M.SUNDRESH, J.

Application No.2583 of 2016 has been filed seeking to recall P.W.2 to cross examine on the side of the defendant.

2. Application No.2584 of 2016 has been filed seeking to re-open the evidence on the side of the plaintiff.

3. The applicant herein is the defendant in the suit. The suit is filed for recovery of possession and damages. Pending the suit, these applications have been filed.

4. The learned counsel appearing for the applicant submits that these two applications have been filed by the defendant/applicant herein for the purpose of cross examination of P.W.2. It is submitted by the learned counsel for the applicant that it is only for the purpose of extracting evidence to prove that P.W.2 is a financier. Hence, these applications are to be allowed.

5. The learned counsel appearing for the respondent/plaintiff submits that it is an attempt to drag on the proceedings and these applications are beyond the scope of Order 18 Rule 17 of C.P.C.

6. Admittedly, the case is at the stage of recording evidence. The defendant side is yet to be examined. It is now the case of the applicant that P.W.2 will have to be permitted to be cross examined, in view of the document now in possession, which are receipts in order to show that P.W.2 is a financier. The applicant has already taken a stand that P.W.2 is a financier.

7. Under these circumstances, this Court is inclined to allow both the applications only for the purpose of proving that P.W.2 is a financier, making it clear that it is not open to the applicant to go into the other parts of the evidence, which have already been recorded.

8. The learned Additional Master is directed to conclude the evidence in a single day and thereafter, to proceed with the recording of evidence on behalf of the defendant.

9. Both the applications are allowed with the above observation.

22.07.2016

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