

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 17TH DAY OF NOVEMBER 2017

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A. No.6281 of 2017

in

C.S.No.964 of 2010

Arun Kumar (@ Arun Kumar Ashkaran)
Suit (Flat) No.10, 4th Floor,
Chandrapuri Apartment,
Chennai 600 112.

...Applicant/Plaintiff

-vs-

1. Smti.Kalpana Mehta (*) since deceased
Being represented by her legal heirs

(*) 2. Lalith Mehta

(*) 3. Abhisek Mehta

(*) 4. Abhinay Mehta
All are at residing at
No.6, Dr.T.V.Naidu Road, Chetpet,
Chennai 600 031. : Respondents/Defendants

(*) Defendants 2 to 4 are brought on record as Legal Heirs
of sole defendant as per Order dated 06.09.2013 in A.No.
3371 of 2013 and Amendment carried out as per order dated
04.10.2013 in A.No. 4605 of 2013.

Application praying that this Hon'ble Court be pleased
to pass an order to Eschew/Expunge the Evidence recorded
during cross examination of P.W.1 dated 11.08.2017 at page
6 of P.W.1's evidence as "My letter dated 17.11.2007 which
contains my signature is marked as Ex.D1" and subsequent
recording of evidence in context with Exhibit D1 either in
the form of question & answer or otherwise along with
Letter dated 17.11.2007 marked as Exhibit D1.

This Application coming on this day before this court for hearing the court made the following order:-

This Application has been filed seeking to eschew/expunge the evidence recorded during cross examination of PW1 on 11.08.2017 at page 6 of PW1's evidence as "my letter dated 17.11.2007 which contains my signature is marked as Ex.D1" and subsequent recording of evidence in context with Ex.D1 either in the form of question and answer or otherwise along with letter dated 17.11.2007 marked as Ex.D1 and thus render justice.

2. In the affidavit filed in support of this Application it is claimed that he being conversant with English, he did not understand the translation properly and he has made such an admission and he would also claim that his answers were not properly interpreted.

3. I do not think such an allegation would amount to sufficient cause to expunge the evidence. The admission have been made in the cross examination and the very purpose of cross examination would be lost if such an allegation is accepted to expunge or eschew the evidence of the witness. However, it is left open to the witness, to explain the circumstances under which such an admission was made in his re-examination subject to that liberty, this application is dismissed and it is for the Court to accept the explanation or not.

Sd/.R.S.M.J
17.11.2017

//Certified to be a true copy//
Dated this the day of 2018

JJ 23/04.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.