

It comes out that defendant No. 1 (present petitioner) during the pendency of suit, filed two applications for amendment of written statement on 5.10.2015 and 20.10.2015, when evidence of defendant No. 1 was being recorded. He tendered an affidavit in examination in chief allegedly on the basis of old written statement. It is also not a denying fact that witness was thereafter cross examined on the basis of said affidavit and statement of defendant No. 1 is now complete. It was thereafter that present application was filed to rectify the affidavit, stating that wrong affidavit was filed on the

CR No. 577 of 2018 (O/M)

basis of earlier written statement.

I am of the view that the effect of tendering the affidavit means that party has made a statement in examination in chief before the Court on oath. It has the same effect as if the witness was examined in chief and thereafter he was cross examined wherein he had opportunity to explain/correct his statement. Once the evidence of defendant No. 1 is complete, his statement though by way of affidavit cannot be corrected. Consequently, instant revision is dismissed.

(KULDIP SINGH)
JUDGE

17.2.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No