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A.No.3610 of 2022 in C.S.No.491 of 2012

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G.CHANDRASEKHARAN, J.

This application is filed to pass an order(s) to eschew the entire evidence of DW1, Mr.Inderjit Singh in C.S.No.491 of 2012.

2.The learned counsel for the applicants/defendants 23 to 25 submitted that when DW1 was cross examined, he died. His cross examination could not be completed and in such circumstances, his entire evidence has to be eschewed. However, this claim of the applicants is disputed by the learned counsel for the first respondent/plaintiff on the ground that DW1 was extensively cross examined on 11 occasions. The evidence of a dead person has its own evidentiary and probate value as per Section 32 of the Indian Evidence Act, 1872. When in this case DW1 was extensively cross examined, his cross examination cannot be eschewed.

3.This Court, on going through the evidence, finds that DW1 was extensively cross examined and the cross examination of DW1 runs to several pages starting from page nos.86 to 140. It is about 54 pages of cross



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examination. Therefore, this Court finds merits in the contention of the learned counsel for the first respondent/plaintiff that DW1 was extensively cross examined. When cross examination was done extensively, this Court is of the considered view that the prayer to eschew the entire evidence cannot be considered.

4.In this view of the matter, this application is dismissed. Post the matter before the concerned learned Additional Master for continuation of recording of evidence of other witnesses.

sli

26.10.2022

G.CHANDRASEKHARAN, J.



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