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Sr. No.126

Date of Decision : May 20, 2024

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time on credit basis from the plaintiff. He also deposited some amount on different dates. At the end of financial year 2017-18, an amount of Rs.1,69,074/- was outstanding towards the defendant.

4. The defendant appeared in the suit and filed written statement, wherein it was contended that the pesticides purchased by him were on cash basis. Plaintiff had obtained signatures of the defendant on the bills on the pretext that the defendant had understood the method how to use the pesticides but the plaintiff denied the signatures of defendant in the account books. After framing of issues, the plaintiff has already led evidence. The defendant has moved application for recalling the plaintiff's witness for further cross-examination.

5. Learned counsel for the defendant has argued that the plaintiff had filed suit on the basis of 24 bills but he did not produce all the bills before the Court. So, the Trial Court did not consider the fact that the plaintiff has placed false affidavit on record. The defendant also gave more amount but the plaintiff failed to make entry in the account books. It has also been brought to the notice of this Court that the earlier counsel representing the defendant had been suffering from a major disease for the last two years and expired in the year 2023. The defendant wants to further cross-examine the plaintiff with regard to copies of bills which were not produced on record. There would be no prejudice to the rights of the plaintiff if he is further cross-examined.

6. I have heard the submissions of learned counsel for the petitioner-defendant and perused the case file.

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7. Plaintiff filed suit for recovery contending therein that defendant purchased pesticides from the plaintiff on different dates on credit basis. Even details of the bills are mentioned in para no.4 of plaint, attached with the paper book as Annexure P-1. The amounts which were paid by the defendant to the plaintiff have been mentioned in para no.5 of the plaint. During pendency of the said suit, application under Order 18 Rule 17 CPC was moved by the defendant to recall the plaintiff for further cross-examination, on the ground that the plaintiff did not produce all the 24 bills, as mentioned by him earlier in the plaint, and therefore, some more questions from the plaintiff were required to be asked. It was also submitted that some more amount was paid by the defendant, which has not come on record. So, the bills are required to be re-examined.

8. A bare perusal of the paper book shows that as per information of the defendant himself, evidence of the plaintiff has already been closed. The learned Trial Court, in the impugned order, has also specifically mentioned that previous counsel of the defendant has already cross-examined the plaintiff at length. Even if some bill(s) was/were not produced, the same would be seen at the time of final arguments and that was no ground to recall the plaintiff for further cross-examination. Plaintiff is required to stand on his own legs. It is duty of the plaintiff to produce the documents on which he is relying in support of the case.

9. Keeping in view the facts that the case is at the rebuttal stage and the plaintiff has been earlier cross-examined at length; no reasonable ground has been explained in the application itself why further cross-examination of

plaintiff is necessary, this Court is of the view that provisions of Order 18 Rule 17 CPC cannot be invoked to fill up lacuna. So, this revision petition is found to be without any merit and the same is accordingly dismissed in limine.

10. Pending applications, if any, shall stand disposed of along with this judgment.

May 20, 2024

monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.