

the petitioners/plaintiffs seeking permission to file a further affidavit in lieu of Examination-in-Chief came to be rejected.

3. Learned Judge, City Civil Court, was of the view that the plaintiffs have not ascribed a justifiable reason as to why the plaintiffs did not file further affidavit in lieu of Examination-in-Chief and produce the documents, which were sought to be produced along with the further affidavit in lieu of Examination-in-Chief, at a prior point of time. There was an inordinate delay on the part of the plaintiffs.

4. Indeed, there is an element of delay on the part of the plaintiffs. The plaintiffs had sought to ascribe the reason of illness and other circumstances which prevented them from filing further affidavit in lieu of Examination-in-Chief. Those reasons cannot be said to be wholly untenable.

5. Nonetheless, the fact remains that the cross-examination of the plaintiffs was yet to be commenced on the day the application to file further affidavit in lieu of Examination-in-Chief was filed.

6. Defendants would have an efficacious opportunity to assail the admissibility of evidence sought to be introduced by way of further affidavit in lieu of Examination-in-Chief and the documents sought to be tendered along with the said affidavit. Therefore, the impugned order deserves to be quashed and set aside.

7. Hence, the following order:

ORDER

i) The impugned order stands quashed and set aside.

ii) The application seeking permission to file further affidavit in lieu of Examination-in-Chief (Exhibit-19) stands allowed subject to following conditions:

a) Defendants will have an opportunity to object to the admissibility of the contents of the further affidavit in lieu of Examination-in-Chief as well as admissibility and relevancy of the documents sought to be tendered along with further affidavit in lieu of Examination-in-Chief. In the event such objections are raised, the learned Judge, City Civil Court is requested to decide the same in accordance with law.

b) The plaintiff-witness shall not seek any further adjournment to subject himself to cross-examination.

7. The Petition stands disposed.

WRIT PETITION NO. 10664 OF 2019

1. Mr. Ghelati, the learned counsel for the respondents makes a grievance that a copy of the petition has not been served.

2. Mr. Sunip Sen, learned counsel for the petitioner, serves a copy of the petition on the counsel for the respondents, across the bar.

3. Stand over to 26th June 2025.

(N.J. JAMADAR, J.)