

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 665 of 2005

Date

Order with signature of Judge

For orders on CMA No.1520 of 2013:

09/09/2013:

Mr. M. Zubair Qureshi, Advocate for the plaintiff.

Syed Aamir Shah, Advocate for the defendant.

The defendant through this application (CMA No.1520 of 2013) seeks permission of the Court to cross-examine the plaintiff as his right for cross-examination was closed by the learned Commissioner on 12th January 2013. Learned counsel for the plaintiff has vehemently opposed this application. It is indeed very unfortunate that the purpose of appointment of Commissioner in many of the cases appears to have been frustrated when the lawyers do not cooperate with the Commissioner in recording evidence. This is a common complaint of lawyers against their brothers inspite of the fact that all the lawyers like to get commissioner appointed by consent.

The plaintiff has not filed any counter-affidavit to this application, however strongly opposed the same in the Court before consenting to the grant of it.

By consent of the parties it is ordered that the learned Commissioner shall take-up this case for cross-examination of the plaintiff on 21.9.2013 at 11.00 a.m. It is expected that the learned Commissioner if already having a case fixed on 21.9.2013 would be

kind enough to accommodate the order of this Court and prefer to take-up this case. However, since the defendant has not been able to give any justifiable reason for his absent on 18.3.2013 when this case was fixed for hearing of this application in Court. Therefore, cost of Rs.10,000/- is imposed to the learned counsel for the defendant that is to be paid to the plaintiff before starting the cross-examination. In failure of payment of cost by the defendant or for any reason failure to cross-examine the plaintiff on the said date the right to cross-examine the plaintiff by the defendant shall be struck of. At the same time as the date and time has been suggested by learned counsel for the plaintiff, in the event of absence of his witness on 21.9.2013, he will have to forego cost imposed on defendant in this order. Since in this case time for recording of evidence has expired the learned Commissioner is given another two months' time to conclude the commission.

JUDGE

S. Akhtar