

20.08.2020

This is an application filed by the defendant under Order 37 Rule 3 (5) of CPC seeking leave to defend.

Present : None.

Arguments have already been heard.

It is contended by the applicant / defendant that the plaintiff has not complied with the provisions of the Order 37 CPC. It is also contended that the plaintiff was organizing a Committee in his office and the defendant was one of the member of the same which was started in January, 2015. That the said committee was of Rs.2.25 lacs for 15 months with the monthly amount of Rs.15,000/-. It is also contended that after depositing 3 committees, since the defendant was in dire need of money, he took full committee in advance in April, 2015 by issuing a security cheque of Rs.2 lacs. That from October 2015 to December, 2017, he was in Bangalore, however, the defendant / his family members deposited all the committees to the plaintiff, time to time. That when after coming back from Bangalore, he visited the office of the plaintiff for his

security cheque. That the defendant has also deposited all the committees to the plaintiff and the plaintiff has misused the cheque which was given for security.

The application is opposed by the non-applicant / plaintiff by filing a reply on the grounds that there was no reply given by the defendant to the legal notice sent by the plaintiff in April, 2018. It is also contended that the cheque in question was got dishonored and accordingly, the defendant is liable to make the payment and the plaintiff is entitled to a decree.

Heard. Record perused.

In para 4 of the application under consideration, it is stated by the applicant / defendant that after depositing 3 committees, he took full committee in advance in April, 2015 as he was in dire need of money in his business. It is in the corresponding para i.e para 4 of the reply filed by the non-applicant / plaintiff, there is no denial to the said facts for the reasons best known to non-applicant / plaintiff. In para 5 of the application, it is stated by the applicant / defendant that during the period, while he remained in Bangalore, the defendant / his family members deposited all the committees to the plaintiff time to time. Again, there is no denial to the said facts in the corresponding para of the reply by the non-applicant / plaintiff and the reasons are again best known to the plaintiff.

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In view of above, several triable issues are found to be involved in the present case.

Accordingly, the application is allowed.

Defendant is directed to file the WS well within 30 days from today with advance copy to the plaintiff, who shall be at liberty to file rejoinder, if any before the next date of hearing.

Be listed for Admission / Denial / framing of issues on 22.10.2020.


(RAJINDER KUMAR)
SCJ-cum-RC (West), THC
Delhi: 20.08.2020