

2019 S C M R 1104

[Supreme Court of Pakistan]

Present: Mushir Alam and Qazi Faez Isa, JJ

MEERA SHAFI (MEESHA SHAFI)---Petitioner

Versus

ADDITIONAL DISTRICT JUDGE, LAHORE and another---Respondents

Civil Petition No. 1352 of 2019, decided on 14th May, 2019.

(Against the order dated 27.03.2019 of the Lahore High Court, Lahore passed in Writ Petition No. 17963 of 2019)

Qanun-e-Shahadat (10 of 1984)---

---Art. 130---Civil Procedure Code (V of 1908), O. XIX---Order of production and examination of witnesses---Scope---Cross-examination of witnesses preferably on the same date---Both the parties conceded for a consent order on the terms that plaintiff in terms of O. XIX of the C.P.C. shall file affidavit-in-evidence of witnesses (mentioned at serial Nos. 2 to 8 in the list of witnesses); that the affidavit-in-evidence of all the said witnesses shall be filed within seven days by the plaintiff with advance copy to the defendant, who shall cross-examine the witnesses within seven days thereafter as may be fixed by the trial Court; that the defendant shall cross-examine all the witnesses including the witness, who had already recorded her examination in chief, preferably on the same date; that any witness left over who could not be cross-examined on the said date may be cross-examined on the following day as may be fixed by the Trial Court; that no party shall seek undue adjournments in the entire exercise; and, that other witnesses of the plaintiff, if so desired, could be examined as may be ordered by the trial court in the sequence considered appropriate---Supreme Court directed that the present matter shall proceed in terms of the consent order and that both parties shall refrain from undue adjournments and/or making unnecessary applications to prolong the timeline of three months given by the High Court to dispose of the present case---Petition for leave to appeal was converted into appeal and disposed of accordingly.

Barrister Haris Azmat, Advocate Supreme Court and Ch. Akhtar Ali, Advocate-on-Record for Petitioner.

Ali Sibtain Fazli, Advocate Supreme Court, Muhammad Ali Raza, Advocate Supreme Court and Syed Rifaqat Hussain Shah, Advocate-on-Record for Respondent No.2.

Date of hearing: 14th May, 2019.

ORDER

MUSHIR ALAM, J.---The petitioner/defendant filed an application before the learned trial Court for recording the examination-in-chief of all witnesses first whereafter the petitioner/defendant shall cross-examine them, which application was dismissed vide order dated 19.03.2019, which order was challenged in writ petition before the Lahore High Court, Lahore, which too was dismissed. Hence the present Petition for leave to appeal.

2. Both the learned counsel for the parties have made their respective submissions and have conceded for a consent order in the following terms:

- i) That the Respondent No.2/Plaintiff in terms of Order XIX of the C.P.C. shall file Affidavit-in-Evidence of witnesses mentioned at serial Nos. 2 to 8 in the list of witnesses;
- ii) That the Affidavit-in-Evidence of all the aforesaid witnesses shall be filed within seven days from today by the Respondent No. 2/Plaintiff with advance copy to the Petitioner/Defendant, who shall cross-examine the witnesses within seven days thereafter as may be fixed by the learned trial Court;
- iii) That Petitioner/Defendant shall cross-examine all the witnesses including the witness mentioned at serial No. 20 (Ms. Kanza), who had already recorded her examination in chief, preferably on the same date. Any witness left over who could not be cross-examined on the said date may be cross-examined on the following day as may be fixed by the learned trial Court;
- iv) No party shall seek undue adjournments in the entire exercise; and
- v) Both the learned counsel states that examination in chief and cross-examination of witness mentioned at serial No. 1 (Mr. Baqir Abbas) has already been recorded. Other witnesses of the Plaintiff, if so desired by the respondent No.2/plaintiff may be examined as may be ordered by the learned trial court in the sequence as may be considered appropriate by the learned trial Court.

3. The learned counsel for respondent No. 2 states that the matter has already been delayed and there is a direction of the High Court vide order dated 09.04.2019 for disposal of the case within three months. It is expected that both the parties shall adhere to such timeline and shall refrain from undue adjournments and or making unnecessary applications to prolong the timeline. In terms of the above, the impugned order dated 27.03.2019 of the High Court is set aside and let the matter be proceeded in terms of the consent order as noted above. This petition is converted into appeal and disposed of in the terms noted above.

MWA/M-
26/SC
accordingly.

Order