

15-11-2018

Parties are duly represented.

Defendant side has submitted written objection with copy. Copy be given to the other side.

Heard the counsels on petition no-530/18 filed by the plaintiff under section 151 CPC praying for allowing the plaintiff side to mark the document as exhibited in the affidavit-in-chief.

Perused the CR.

Case of the petitioner is that the original documents submitted by the plaintiff side haven't been marked as exhibits though the affidavit-in-chief is filed showing the marks of exhibits. Inadvertently the said documents haven't been marked and signed by the court at the time of cross examination. Hence the plaintiff has prayed for allowing him to mark the document in order to avoid future complication.

Defendant side filed written objection denying the claims of the plaintiff. Defendant side further stated that the petition of the plaintiff is not maintainable and prays for dismissal of the petitioners' petition.

It is evident from the case record that the plaintiff side has submitted evidence-on-affidavit of two plaintiff witnesses (Pw-1 and Pw-2) on 20/6/2017 before the Ld.court of Munsiff No-1, Nalbari . The plaintiff himself as Pw-1 submitted his evidence-on-affidavit exhibiting five nos. of documents. But the documents shown as exhibits in the evidence-on-affidavit of Pw-1 haven't been marked as exhibits and have not borne the signature/initial of the presiding judge of the relevant point of time. The defendant side has also cross examined the Pw-1 on two dates that is on 11/12/2017 and 19/12/2017.

It is pertinent to mention here that this court has received this case on transfer on 6/1/2018 as per the direction of the Hon'ble Gauhati High court. After

receiving the case, this court proceeds with the case and now the case reaches at the stage of argument.

It is settled position of law that omission to sign exhibited documents is merely a technical defect or an irregularity and it doesn't affect the merits of the case. Rules of procedures are made to sub serve the ends of justice but not to defeat them.

If the plaintiff is allowed to mark the exhibited documents as stated in his evidence on affidavit, the defendant side will not be prejudiced in any manner. Rather it will help the court adjudicating the suit in a just and proper manner.

Considering entire aspects of the matter, this court finds it justified to allow the petition of the petitioner for the ends of justice

Accordingly, the petition is allowed on payment of cost of Rs 500/ for causing delay in the suit.

Plaintiff counsel to mark the exhibits in presence of the defendant counsel.

B. A. is to do the needful.

Accordingly, this M.J. case is disposed of.

[Signature]
Munsiff
Baksa