

KABG040015632013



29.01.2026

O.S.NO.666/2013

**ORDERS ON I.A.NO.XVI & XVII FILED
U/SEC.151 OF C.P.C. & U/O.XVIII
RULE 17 R/W. SEC.151 OF C.P.C.**

The counsel for defendants has filed application U/Sec.151 of C.P.C. and U/O.XVIII Rule 17 R/w. Sec.151 of C.P.C. seeking to reopen the case and to recall PW-1 for cross-examination.

2. In the memorandum of facts annexed to the applications, it is contended that the present suit is filed by plaintiffs for the relief of recovery of possession and the suit came to be dismissed initially. But, the Hon'ble Appellate Court has remanded the matter for disposal afresh and thereafter the plaintiffs led evidence and when case stood posted for cross-examination, the defendants have partly

O.S.No.666/2013

cross-examined PW-1. It is further stated that considerable time was consumed in receipt of records on the file of IV Addl. Civil Judge & JMFC in relation to O.S.No.34/1995 and thereafter the case stood posted for further cross-examination of PW.1. That on 18.02.2025, the counsel for defendants could not appear before the Court as he was pre-occupied in Hon'ble High Court of Karnataka, Dharwad Bench, in order to address arguments on preliminary hearing in a writ petition. That as such under the aforesaid inevitable circumstance, the defendants could not further cross-examine PW-1 and hence their absence is neither intentional nor deliberate. On these grounds, the defendants have prayed to allow the said applications.

3. Per contra, the plaintiffs have not filed objections to the said applications.
4. Perused the applications.
5. Heard arguments of both counsel.

6. The following points arise for consideration:

POINTS

i) Whether the applicants/ defendants have made out sufficient grounds to allow the I.A. No.XVI and XVII ?

ii) What order ?

7. My findings to the above points are as follows :

Point No.1 : In the Affirmative,

Point No.2: As per final order for the following :

REASONS

8. Point No.1 : This is suit filed by the plaintiff seeking the relief of possession of suit property. The suit is of the year 2013 and there is already much delay in the proceedings and now the defendants have sought to recall PW-1 for further cross-examination despite he having cross-examined PW-1 in part in the past. However, it is well settled that both parties have to be given fair and equal

opportunity to prove their case and to disprove the case of other side. As such, in order to provide full opportunity to the defendants to disprove the case of plaintiffs or to prove their defence, it is deemed necessary that the aforesaid applications be allowed. At the same time, the interest of plaintiffs has to be protected and it can be done by imposing suitable conditions in order to see that there is no further delay in the proceedings. Hence, I answer **Point No.1 in the Affirmative.**

9. Point No.2 : For the aforesaid reasons, I proceed to pass the following :

ORDER

The applications i.e., I.A. No.XVI and XVII filed by defendants U/Sec.151 of C.P.C. and U/O.XVIII Rule 17 R/w. Sec.151 of C.P.C. are hereby allowed on cost of Rs.500/- and subject to condition that the defendants shall cross-examine PW-1 within next two dates of hearing without fail, failing which the case shall stand posted for defendant evidence automatically.

O.S.No.666/2013

***Matter is reopened and PW-1
is recalled for further cross-
examination.***

**Prl. Civil Judge & J.M.F.C,
Belagavi.**

Call on 11.02.2026.

**Prl. Civil Judge J.M.F.C,
Belagavi.**