

13-01-2026:

**ORDER ON OBJECTION TO
EVIDENCE AFFIDAVIT FILED BY
DEFENDANT NO.1**

The plaintiffs have filed objections to the evidence affidavit dated 06-09-2025 submitted by defendant No.1 under Order XVIII Rule 4 of CPC.

It is contended by the learned counsel for the plaintiffs that the evidence affidavit is not prepared in accordance with the procedure prescribed for recording examination-in-chief. It is further contended that paragraphs No.2 to 12 of the affidavit are not based on the personal knowledge of the

witness. Hence, it is prayed that paragraphs No.2 to 12 of the affidavit be ignored or, in the alternative, defendant No.1B directed to file a fresh affidavit strictly in accordance with law.

Heard the learned counsel for both sides. Perused the objections, the evidence affidavit dated 06-09-2025, and the material available on record.

On perusal of the affidavit filed by defendant No.1, it is evident that the contents there in substantially retreat the averments made in the written statement. Order XVIII Rule 4 of CPC permits examination-in-chief to be tendered by way of affidavit. There is no prohibition in law for a witness to restate the pleadings in the affidavit, provided the same is subject to cross-examination. Therefore, whether the statement made in paragraphs No.2 to 12 are within the personal knowledge of the witness or are mere argumentative or legal in nature is a matter to be tested during cross-examination. Such aspects go to the weight and credibility of the evidence and not to its admissibility at this stage.

It is well-settled that objection regarding the nature of prohibitive value of statements made in an affidavit can be effectively addressed during cross-examination and at the time of final appreciation of evidence. Hence, striking out or directing re-filing of the affidavit at the stage is not warranted.

Hence, in view of the above discussion, the objection filed by the learned counsel for the plaintiffs to the evidence affidavit dated 06-09-2025 is liable to be rejected. So, this Court deems it fit to pass the following:

ORDER

The objection filed by the plaintiffs to the evidence affidavit dated 06-09-2025 filed by the defendant No.1 in lieu of examination-in-chief is hereby rejected, reserving liberty to the plaintiffs to test the veracity, relevance, and admissibility of the statements made their in during cross-examination and at the stage of final arguments.

Call on for further chief-examination
of defendant No.1 by 20-01-2026.

Senior Civil Judge, Bailhongal.