

ORDER ON I.A.IV and V

This order arising out of I.A filed by plaintiff U/o 18 Rule 17 R/w Sec.151 of CPC and U/s. 151 of CPC seeking permission to recall the order and permit to further cross examination of DW-1

2. In support of application plaintiff has duly sworn affidavit and annexed the same along with application and stated that, the above suit stands posted for addressing arguments. The plaintiff could not further cross examine the DW-1 in the last date of hearing due to personal inconvenience. Whereas some important points were left out during cross examination of DW-1. Hence prays to allow the application.

3. On the other hand defendant No.3 has resist application filed by plaintiff and stated that, application filed by the plaintiff is not maintainable either under law or on fact. The plaintiff has filed this application simply to drag the proceedings and to harass this defendant. Hence prays to reject the application.

4. Heard on both side.

5. Upon hearing arguments and on perusal of materials placed on record the following points that would arises for my consideration.

1. Whether there is sufficient grounds to allow the

applications?

2. What order?

6. My findings to the above points are as under:

Point No. 1: In the Negative

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

REASONS

07. POINT No. 1: The plaintiffs have filed this suit against defendants seeking relief of permanent injunction. Now plaintiff has filed this application U/o 18 Rule 17 R/w 151 of CPC seeking to recall the order and permit to further cross examine DW-1.

08. On perusal of the record. The plaintiff counsel has been conducted marathon cross examination up to 11 pages. Further the defendants are same parties in more than thousand cases before this court and remaining two Additional Courts. In the all cases, the plaintiff counsel has deposed the same cross examination of DW-1 from page of 1 to 11. However, the plaintiff counsel has filed this application only protract the matter.

09. On perusal of the record it appears that, the plaintiff counsel has been exhaustively completed all the question putforth by DW-1. This is a suit for bare injunction it is duty of plaintiff to prove possession and interference which alleged in the plaint. It is not a duty

of defendants to prove plaintiff case. Because burden is cast upon to the plaintiff to prove his case. As discussed above, the plaintiff counsel has been exhaustedly cross examined of DW-1. Therefore there is no question is remain to putfourth to DW-1. Thus, applications are not tenable at this stage. ***Hence I answer point No.1 in the Negative.***

10. Point No.2: In view of the above discussion, this court proceeds to pass the following:

ORDER

**I.A. No.IV and V filed by plaintiff
Under Order 18 Rule 17 R/w Sec. 151
of C.P.C., is hereby rejected with cost.**

**For arguments as a last chance
by 24-06-2024.**

**Prl. Civil Judge and JMFC.,
Devanahalli**