

ORDER ON I.A. 8 & 9 FILED UNDER
SECTION 151 OF CPC

This applications are filed by the defendants seeking to re-open the case for leading the evidence of defendant side. It is contended that, due to ill health the counsel was unable to appear before the court and due to ill health to the party shall cannot lead evidence. Therefore seeks to give the chance to adduce the evidence.

2. The plaintiff counsel filed objections stating that, they have not filed any medical documents to say that, they were unable to attend the court. Hence when the arguments of plaintiff side was heard it is not faceable to allow the other side to lead evidence. Hence seeks to dismiss the application.

3. Heard arguments. The following points arise for my consideration:

1. Whether the application filed U/s 151 of CPC is deserves to be allowed. ?

4. My finding on the above points is in the **Affirmative** for the following:

:REASONS:

5. **Point no.1:** It is no doubt the defendants were given sufficient opportunity to lead the evidence and they failed to do so. Thereby the evidence was taken as nil and later the counsel for plaintiff submitted arguments and at that stage the defendants counsel filed these applications. The issues framed in this case goes to show that, the Issue No. 2, 4 are to be proved by these defendants and if they are prevented from lead the evidence it will cause miscarriage of justice. However they have not produced any sufficient documents to prove the reasons assigned in the Affidavit. It is hard ship on the part of plaintiff to suffer the delay of proceedings caused by the defendants. Hence in my opinion the plaintiffs must be compensated and as such I deem it fit allow the applications by imposing cause. Hence I answer the point in the Affirmative and pass the following:

ORDER

The I.A. 8 & 9 filed Under Section 151 of CPC to re-open the case and permit the defendants to lead evidence are hereby allowed on cost of Rs.1000/-.

Defendants shall lead the evidence
without taking adjournment.

The cost shall be condition precedent.

Senior Civil Judge & JMFC.,
Hiriyur.

