

ECA.01/2019

Case called out, Petitioner absent, IA 6 and 7 are filed U/O.18 rule 17 and U/Sec.151 of CPC by the learned counsels appearing for the R-1 and R-2. Copies served on other side objection to IA No.6 and 7 not filed, and submits that no objection to allow the same. heard, for orders.

Common Order on I.A. No.6 and 7

The IA 6 and 7 are filed U/O.18 rule 17 and U/Sec.151 of CPC by the learned counsels appearing for the R-1 and R-2 U/Sec.151 of CPC praying to recall PW-1 for examination by reopening the case from the stage of further Petitioner's evidence.

2. In support of these applications, the petitioner has filed affidavit.

3. The learned counsel for plaintiffs have not filed objections .

4. Having heard on the side of defendants.

5. Following points will arise for my consideration:

1. Whether the applications filed by the R-1 and 2 U/O 18 Rule 17 R/w Sec.151 and U/Sec.151 of CPC are deserves to be allowed?

2. What order?

6. My answer to the above points is as under:-

Point No.1 - In the Affirmative

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

REASONS

7. **Point No.1:-** The petitioner has filed this petition seeking compensation U/Sec.166 of IMV Act 1988 against the respondents. It is stated that his counsel was unable to produce relevant documents at the time of examining the PW-1 on the date fixed for the purpose of leading evidence of this witness.

8. The respondent No.1 and 2 have got the defence to put forth in this case, in the previous date of hearing that due ill health of their advocates and also due to some communication gap, they could not cross examine the witness on the day fixed for the petitioner's evidence as submitted by the learned counsels appearing for the respondents and also as per memo of facts and affidavit sworn by R-1 as well. It is incumbent on the part of the Court to recall the PW-1 for cross examination by the other side to enable this Court to dispose the matter as early as possible. For all these reasons, in my opinion if the applications are allowed no hardship will be caused to the petitioner, and it would meet the ends of justice. Accordingly, I answer this point No.1 in the Affirmative.

9. **Point No.2:-** In view of the above reasons, I proceed to pass the following:-

ORDER

IA 6 and 7 are filed U/O.18
rule 17 and U/Sec.151 of CPC by
the learned counsels appearing for
the R-1 and R-2 Sec.151 of CPC

are hereby allowed PW-1 is
recalled.

And also awaiting C/R.

Call on: 21-06-2022.

Senior Civil Judge & JMFC.,
Holalkere.