

ORDERS ON I.A.7 and 8

These IAs have been filed by the 1st defendant, U/O 18 Rule 17 R/w Sec.151 of CPC and U/S 151 of CPC seeking for reopening of the stage by recalling PW-1 to 3 for cross-examination, in the interest of justice and equity.

2. These applications are supported by separate affidavits filed by the 1st defendant for himself and also on behalf of other defendants. The gist of the application averments are that when the case was posted for cross-examination of PW-1 to 3 and also at proper stage of defendants evidence, due to inconvenience and inadvertence i.e., he is suffering from old age diseases, he could not able to appear before this court and represent the case and cross-examine PW-1 to 3. Hence, the court has taken the cross-examination of PW-1 to 3 as nil. The reasons stated above are not intentional but bonafide one. Hence, it is just and necessary to recall PW-1 to 3 for cross-examination. Therefore, it is sought to allow these applications.

3. The counsel for plaintiff submitted no objections to allow the applications.

4. Heard learned counsel for defendants. Perused the case records.

5. The following points that arise for consideration are;

1. Whether the applicant / 1st defendant has made out grounds to reopen the case to

recall PW-1 to 3 for cross-examination ?

2. What order?

6. Answers to the above points are as under;

Point No.1 : In the Affirmative;

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

REASONS

7. **Point No.1:-** This suit is for the relief of partition and separate possession. It is a matter of record that PW-1 to 3 have not been cross-examined by the 1st defendant, who has taken a specific defence. In order to provide reasonable opportunity, it is proper to allow these applications in the interest of justice and equity by imposing reasonable costs in favour of plaintiff for the delay caused. No harm or prejudice will be caused to the plaintiff and on the other hand, if permission is denied, the defendants will be deprived of their valuable right to defend their interest. Accordingly, **the point under consideration is answered in the affirmative.**

8. **Point No.2 :-** In view of the discussion in the foregoing point, the following;

ORDER

I.A.No.7 and 8 filed by the applicant / 1st defendant, U/O 18 Rule 17 R/w Sec.151 of CPC and U/S 151 of CPC are allowed with costs of Rs.2,000/-.

Stage is re-opened.

PW-1 to 3 are recalled.

For cross-examination of
PW-1 to 3: 04.06.2026.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 17th day of April, 2027)

Sd/-

(IRFAN)
Senior Civil Judge,
Kadur.