

ORDERS ON I.A.26 and 27

These IAs have been filed by the defendants No.1 to 4 and 6, 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 for cross-examination, in the interest of justice and equity.

2. These applications are supported by separate affidavits filed by the 2nd defendant. The gist of the application averments are that on the last date of hearing, he was suffering from ill-health and Doctor advised him to take rest and also his counsel was engaged in another court. Hence, he and his counsel could not attend the court and cross-examine PW-1. Hence, the court has taken that the cross-examination of PW-1 closed and posted the case for arguments. The reasons stated above not intentional but bonafide one. Hence, it is just and necessary to recall PW-1 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 applicants /
defendants No.1 to 4 and 6
have made out grounds to*

*reopen the case to recall PW-1
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 when the case was posted for arguments on behalf of the defendants, the applicants / defendants No.1 to 4 and 6 have come up with these applications seeking to reopen the stage in order to permit them to conduct further cross-examination of PW-1. It is a matter of record that the PW-1 has been partly cross-examined on behalf of defendants No.1 to 4 and 6 and having regard to the nature of suit on hand and also to permit the aforesaid defendants to establish their contentions, these applications deserves to be allowed by imposing suitable costs. 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.26 and 27 filed by the applicants / defendants No.1 to 4 and 6, 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 is recalled.

For cross-examination of
PW-1: 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.