

Orders on I.A. No.10 and 11

The defendant filed publication u under Section 151 of C.P.C. In order to reopen the case and under Order 8 Rule 17 of C.P.C. in order to recall the natural plaintiff by name Mangala for the purpose of Cross-examination.

In the affidavit he has stated that, the plaintiff filed the suit for the relief of permanent injunction. Further it is stated that, on the last date of hearing he filed an application for recall the Pw-1 and came to known the case was filed by name Mangala. Hence, the recall of Pw-1 is necessary for the purpose of cross-examination.

On the other hand, the counsel for plaintiff filed objection to I.A. No.10 and 11 contending that, the both the applications filed by the plaintiff is not maintainable the natural plaintiff has not been examined before this Court. Hence, the question of recall the Pw-1 does not arise for consideration.

Heard arguments. Perused the order sheet it is noticed that, the natural plaintiff has not been examined before this Court, whereas the G.P.A. Holder of plaintiff by name T.V. Manjunatha has examined as Pw-1. But the plaintiff has not been examined before this Court. Hence, the question of recalling the original plaintiff to cross-examination by the defendant. If the plaintiff have appear before this Court and examined as Pw-1, then the defendant has got right to cross-examination. But in the instance case, the plaintiff has not adduced any evidence before this Court. Hence, the question of

recalling original plaintiff does not arise. Moreover, the defendant has not made out any reasonable grounds to allow the application. Hence, this Court is opinion the plaintiff is not made out any grounds to recall the original plaintiff, who has not been examined before this Court. Hence, the application filed by the defendants is no merits. Accordingly the I.A. No.10 and 11 are rejected.

For further cross-examination Dw-1
Call on: 15.07.2022.

Sd/-
C/c. III Addl. Civil Judge & JMFC,
Kaduru