

**ORDERS ON I.A.NO.III FILED BY THE
RESPONDENT**

I.A.No.III filed by the respondent U/o 151
of CPC to recall PW-1 and to re-open the case.

2. On the other hand, petitioner filed objection to IA No. III by denying all the averments made in the memorandum of facts annexed to the application.

3. Heard both side and perused the materials on record.

4. The following points arises for my consideration.

1) Whether the respondent has made out grounds to allow IA No. III?

2) What order?

5. Heard on IA No.III by both side

6. My findings on the above points are as follows:

Point No. 1 : In the Affirmative

Point No. 2 : As for the following:

REASONS

7. Point No. 1: It is submitted by respondents that, recently they were able to trace out some documents touching the subject matter of the case and in order to confront said documents and to elicit answer from the mouth of petitioner (PW-1) regarding the said documents re-opening of the above case and to permit respondents to cross-examine petitioner (PW-1) by recalling him, is felt to be imperative. If the respondents are not permitted to further cross-examine petitioner, respondents will be put to untold hardship, inconvenience and injustice and the truth will not get revealed. If the respondents are permitted to further cross examine petitioner, no harm, inconvenience will be caused to him. Hence, respondents prays to allow the application.

8. On the other hand the petitioner has filed objection to the application by stating that the application are not maintainable either on law nor on facts. The reasons assigned by petitioner in the application are not valid and cogent reasons. Hence the application is not maintainable and liable to be dismissed. Respondents have already cross examined petitioner in detail and they have covered all the questions to be clarified from petitioner. But only to harass and cause

inconvenience to petitioner, respondents have come up with the present application.

9. Further respondents have come up with the present application only to drag on the proceedings and also to escape from liability. Petitioner has sustained amputation of left hand and he has sustained 70% disability due to the accidental injuries while working with respondents and his future has been badly effected and he is facing acute financial distress and his future is in total dark. But the respondents only with a sole intention to escape from their liability, they are unnecessarily dragging on the proceedings due to which petitioner has been put to untold hardship and inconvenience. Hence the petitioner prays to dismiss the application.

10. On perusal of the records it reveals that, when the matter is posted for further evidence of petitioner respondents have filed the present application for recall of petitioner and reopen the case for cross-examination of PW-1. It is the principle that widest opportunity should be given to the parties to prove their case in the trial court itself. If the IA No. III are allowed no hardship will be caused to the petitioner. Therefore, to

avoid multiplicity of proceedings I inclined to allow the applications filed by the respondents. In view of my above discussion I answer point No.1 in the Affirmative.

11. **Point No. 2:** In view of my findings on point No.1 I proceed to pass the following:

ORDER

I.A.No.III filed by the respondents
U/Sec 151 of CPC is hereby allowed on
costs of Rs.100/-.

PW-1 recalled, Case posted for
cross-examination of PW-1.

Call on : 07/08/2023

(JAYAPRAKASH V.)
SENIOR CIVIL JUDGE AND JMFC.
MUDIGERE.