

KACM710013262012



**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE AND
J.M.F.C., AT TARIKERE**

Present: Smt.Urmila.V. B.A.L., LL.B.,
I Addl. Civil Judge & JMFC, Tarikere.

Dated : 25th Day of March 2026

ORIGINAL SUIT NO.288/2012

PLAINTIFF/s :

T.V.Manjunatha S/o late Vitalappa,
aged 57 years, Agriculturist, R/o 6th
Cross, Nagappa Colony, Tarikere Town.
(Reptd. By : Sri T.L.P., Advocate.)

Vs.

DEFENDANT/s:

- 1) Narayana S/o late Kandiyanna,
aged 50 years,
- 2) Thimmakka W/o late Kandiyanna,
aged 75 years,
- 3) Ramya @ Putti D/o Narayana, aged
25 years,

D.1 to 3 are R/o 6th Cross,
Nagappa Colony, Tarikere Town.

(Reptd. By : Sri H.S.N., Advocate.)

PARTIES TO I.A.NO.XXIII & XXIV

Applicant/s : T.V.Manjunath

Vs.

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Opponent/s : Narayana and others

i	Provision under which the application is filed	I.A.No.23 – u/s 151 CPC I.A.No.24 – u/s 151 of CPC
ii	Relief sought for	To recall and reopen the case for further cross examination of DW.1
iii	The date of which the application is filed	03.12.2025
iv	Number of application	I.A.No.23 & 24
v	The date on which the objection are filed by different opponents	19.12.2025
vi	The date on which the orders were passed on the said application	25.03.2026

COMMON ORDER ON I.A.NO.XXIII & XXIV

The applicant/plaintiff has filed these I.As., when the matter is set down for arguments on merits.

2. The plaintiff has filed I.A.No.XXIII u/s 151 of CPC with a prayer to reopen the above matter for further cross examination of DW.1 and he has filed I.A.No.XXIV u/s 151 of

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CPC with a prayer to recall DW.1 for further cross examination.

3. The I.As., are supported with the memo facts. In the memo of facts, it is stated that the defendant was examined as DW.1 and the counsel for plaintiff intends to further cross examine the DW.1 regarding the averments made in the amended plaint which are very essential and hence, it is just and necessary to reopen and recall the DW.1 to put some questions with regard to title of the documents and confront the documents of the suit schedule property in order to adjudicate the suit finally and effectively between the parties. It is further stated that if these I.As., are not allowed, the plaintiff will be put to great hardship, on the other hand if these applications are allowed, no hardship will be caused to the other side. Hence, these applications.

4. The I.As., copies served to the other side. The counsel for the defendants has filed objections and resisted the I.As., filed by the plaintiff and inter alia contended that the I.As., are not maintainable under law. It is further contended that previously the suit was disposed of and in the appeal filed by the plaintiff, he was permitted to produce some documents and in view of the same, the plaintiff has produced the documents and now the evidence of plaintiff was fully

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completed. The defendant has also led his evidence and he has also fully cross examined by the plaintiff and again the plaintiff has sought for cross examination of defendant. In the order passed in the appeal also, there is no mention about the examination of defendant and as such, the applications are not maintainable. For all these grounds, he prays for to reject the I.As., filed by the plaintiff with cost.

5. Heard arguments on both sides.

6. On perusal of the rival contentions and other materials placed on record, the following points that would arise for my consideration are :

- 1) Whether the I.A.No.XXIII and XXIV filed by the plaintiff are deserves to be allowed?
- 2) What order?

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

Point No.1 : In the Affirmative,

Point No.2 : As per the Order,

for the following:

REASONS

8. **POINT NO.1** : On perusal of the materials available on record, admittedly the plaintiff has filed above suit against the defendant for the relief of declaration, recovery of

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possession and mesne profits in respect of suit schedule property. When the matter is set down for arguments on merits, the plaintiff has filed these I.As., and sought for to reopen the case and recall the case for further cross examination of DW.1. It is the urge of the plaintiff that, the counsel for plaintiff intends to further cross examine the DW.1 regarding the averments made in the amended plaint and to put some questions with regard to title of the documents and confront the documents in respect of the suit schedule property and the same is necessary to adjudicate the suit finally and effectively between the parties.

9. On the other hand, the defendants have contended that previously the suit was disposed of and in the appeal filed by the plaintiff, he was permitted to produce some documents and in view of the same, the plaintiff has produced the documents and now the evidence of plaintiff was fully completed and the defendants have also led his evidence and he has also fully cross examined by the plaintiff and in the order passed in the appeal also, there is no mention about the examination of defendants and as such, the applications are not maintainable.

10. On perusal of materials available on record, admittedly it is a suit for declaration, recovery of possession

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and mense profits against the defendants in respect of suit schedule property. In a suit for declaration and possession, the burden of proof is always lies upon the plaintiff to establish his title and possession over the suit schedule property. As per plaintiff, he intends to further cross examine the DW.1 with regard to amended plaint and to put some questions with regard to title of the documents and confront the documents in respect of the suit schedule property. Therefore, if one more opportunity would be given to the plaintiff's counsel to cross examine DW.1 by imposing cost, it will meet the ends of justice. If these applications are allowed, no hardship will be caused to the other side. For considering all these reasons, 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.XXIII and XXIV filed by the plaintiff are hereby allowed on cost of Rs.300/- each.

The case is reopened for further cross examination of DW.1.

For further cross examination of DW.1

by :

(Dictated to the Stenographer directly on computer, computerized

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by her, corrected by me and then pronounced in the open Court,
on this the 25th day of March 2026.)

sd/-

(URMILA.V)
I ADDL. CIVIL JUDGE AND
J.M.F.C, TARIKERE.