

**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE
AND JMFC., AT CHAMARAJANAGARA**

Dated this the 19th day of July, 2025

**Present: Sri. Sunil .R B.Com, LL.B.,
Addl. Sr. Civil Judge & JMFC,
Chamarajanagara.**

O.S.No.56/2019

Plaintiffs : Sri. Nanjundashetty & another

Vs

Defendants : Sri. Venkatarangashetty & others

Parties to IA No.VII & VIII

Applicant : Sri. Venkatarangashetty

--- Defendant No.1

Vs

Opponents : Sri. Nanjundashetty & another

--- Plaintiffs

COMMON ORDER ON I.A. NO.VII & VIII

The defendant No.1 has filed IA No.VII under Sec.151 of CPC for re-open the stage and IA No.VIII under order 18 rule 17 of CPC for recall the PW.1 for further cross- examination.

2. In the accompanying affidavit of IA No.VII and VIII, the defendant No.1 has stated that on last date of

hearing he was suffering from ill-health and due to that he could not able to contact his counsel and not gave information. For the said reasons, his counsel was not further cross-examined the PW.1. The further cross-examination of PW.1 is very much necessary. If IA No.VII and VIII are not allowed, he will be put to irreparable loss and injustice. On the other hand, if IA No.VII and VII are allowed, the plaintiffs will not suffer from injustice. Hence, he prays to allow the IA No.VII and VIII.

3. On the other hand, the plaintiffs have filed objection to IA No.VII & VIII stating that the said IAs' are not maintainable either in law or on facts and liable to be dismissed in limine. The grounds stated in the accompanying affidavit of IA No. VII & VIII are baseless and suppression of material facts. On 25.07.2022 and 18.07.2023, the counsel for the defendant No.1 cross-examined the PW.1. Thereafter, even though sufficient opportunity was given to the counsel for the defendant No.1, he did not further cross-examine the PW.1. Only to drag on the proceedings, the defendant No.1 has filed these baseless interlocutory applications. Hence, on these grounds, they pray to reject the IA No.VII and VIII.

4. Heard arguments from the learned counsel for the plaintiffs and defendant No.1.

5. After hearing the arguments, the points that arise for my consideration are as follows:

POINTS

1. Whether the defendant No.1 has made out sufficient and reasonable grounds to allow the IA No.VII & VIII?

2. What order?

6. My findings to the points are as follows:

Point No.1 : **In the Negative**

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

R E A S O N S

7. Point No.1: On perusal of plaint, it is noticed that the plaintiffs have filed this suit against the defendants for seeking the relief of partition and separate possession. In the present suit, this court framed the issues on 19.04.2021. After framing of issues, the plaintiff No.1 examined himself as PW.1 on 16.09.2021. On the same day, the PW.1 produced 17 documents which are got marked as Ex.P1 to 17. Thereafter, the matter is posted for cross-examination of PW.1 on several dates viz.,

05.10.2021, 08.11.2021, 07.12.2021, 03.01.2022, 11.01.2022, 22.02.2022, 15.03.2022, 12.04.2022, 20.06.2022, 25.06.2022 and 25.07.2022. Even though court provided sufficient opportunity as stated above, the counsel for the defendant No.1 party cross-examined the PW.1 on 25.07.2022. Thereafter, this matter is posted for further cross-examination of PW.1 on several dates viz., 11.08.2022, 19.09.2022, 17.10.2022, 15.11.2022, 24.11.2022, 15.12.2022, 10.01.2023, 17.01.2023, 10.02.2023, 06.03.2023, 17.04.2023, 06.06.2023 and 18.07.2023. Despite the court provided sufficient opportunity as stated above, the counsel for the defendant No.1 party cross-examined the PW.1 on 18.07.2023. Subsequently, this matter is posted for further cross-examination of PW.1 on several dates viz., 05.09.2023, 08.09.2023 and 09.10.2023. On 05.09.2023 and 09.10.2023 even though PW.1 is present before the court, the counsel for the defendant No.1 took time for further cross-examination of PW.1. Finally, on 09.10.2023 this court passed the order that further cross-examination of PW.1 is taken as Nil and matter is posted for defense evidence. On very next date of hearing, the counsel for the defendant No.1 has filed the present interlocutory applications.

8. On perusal of order sheet, it is notice that the counsel for the defendant No.1 took approximately two years for cross-examination of PW.1. Even though court provided more opportunity to the counsel for defendant No.1 to cross-examine the PW.1, he failed to fully cross-examine the PW.1. Further, the reasons mentioned in the accompanying affidavit are not proper and satisfactory to allow the IA No.VII and VIII. Moreover, the children of defendant No.1 filed the present suit against their father i.e., defendant No.1 and sisters i.e., defendant No.2 and brother i.e., defendant No.3. As such, there is no serious dispute between the parties to determine the real controversy involved in this suit. Further more, on the request of both the parties and counsels, this court referred this matter to Mediation center for settle the dispute on several dates. Even though court provided sufficient opportunities to both the parties to settle their dispute, the defendant No.1 being a father of plaintiffs failed to settle the dispute arise between them. The act of defendant No.1 clearly shows that he is not interested to settle the dispute involved in the present suit and only to drag on the proceedings and with a malafide intention, he filed the present interlocutory applications. Therefore, this court is of the opinion that the defendant No.1 has not

made out sufficient and reasonable grounds to allow the IA No.VII & VIII. Accordingly, this court answer the **Point No.1 in the Negative.**

9. Point No.2 : In view of my answers given on the above points, this court proceed to pass the following:-

ORDER

I.A. No.VII filed under Sec.151 of CPC & IA No.VIII filed under order 18 rule 17 of CPC are hereby rejected with cost of ₹.2,000/- on each interlocutory applications.

[Dictated to the Stenographer, transcribed and typed by her on the computer, corrected by me and then pronounced in the open Court on this 19th day of July, 2025]

**[Sri. Sunil .R]
Addl. Sr. Civil Judge and JMFC.,
Chamarajanagara.**