

COMMON ORDERS ON I.A NO.2 AND 3

The learned counsel for the defendants has filed IA No.2 U/Sec.151 of CPC., seeking reopen the case from the stage of argument to stage of cross examination of PW.1 and IA No.3 U/o 18 Rule 17 R/w Sec.151 of CPC., seeking recall PW.1 to cross examination.

2. In support of these applications the learned counsel for the defendants has filed affidavits, wherein he has stated that the plaintiffs have filed this suit for Mandatory Injunction, damages etc., against the

defendants. In this case on 25.09.2025, this court has taken the cross examination of PW1 as nil and posted to defendant evidence to 31.01.2026, 7.02.2026, 28.02.2026. On 7.02.2026, 28.02.2026, he tried to file applications to reopen and recall of PW 1 and on 7.02.2026 the counsel for the plaintiff colleague has not received copy of IA's and on 28.02.2026 this court has insisted to keep present the defendant and file application and due to ill-health to the defendants, were not present and this court is take it as no evidence of the defendants and posted to arguments to today. But the defendants have good case to disprove the case of the plaintiff and get dismiss and it is necessary to cross examine PW.1 on behalf of the defendant on the written statement contentions and it is necessary to cross examine PW.1 by way of order for reopening this case from the stage of arguments to the stage of cross examination of PW.1 as because on that date he was in Hon'ble High Court of Karnataka Bengaluru to attend the cases and he could not represent this case he could not cross examine PW.1 in this case and it is necessary to be considered as bonafide and unintentional and to give opportunity to the defendants to cross examine PW.1. By ordering so, the other side will not prejudice in any manner. On the other hand, he will be put to more hardship and legal

injury which cannot be measured by any means. Hence, he prays to allow the applications.

3. On the other hand the learned counsel for the plaintiff has filed common objections in these applications. In the objection he has contended that the I.A No.2 and 3 filed by the defendants is not maintainable under law and facts. Further stated that I.A No.2 and 3 filed by the defendant along-with affidavits stated and content of affidavits all facts are concocted stories and false and strict proofs of same. Further stated that before this court the applications and affidavits it is imaginary content disclose by the defendants are all imaginary contents and strict proof of same. It is specifically contended that the plaintiff filed the suit against the defendants for relief of money for recovery, beside on check bounce. Further the case already posted on arguments of the plaintiff counsel and the said defendant not cross examined of PW1 not on time. Hence this court sufficient opportunity given to defendant counsel to cross-examination of PW.1 and not given to any genuine reasons says at last date of hearing. Hence, this court taken to no cross-examination of PW.1 and no evidence of the defendants, in more than 8 hearing dates, the defendants does not appearing before court and not examined PW.1 in this stage. Further the

said defendant and counsel not properly on time, in their evidences and not filed the any supported documents in this application and affidavit to process the case. Further the application and affidavit it only to fulfill the lacuna of their negligence of the defendants and moreover the case filed by the plaintiff more than 3 years old and the all opportunities given to court the defendant all are to neglect and waste of precious time of court. Hence, he prays to dismiss the applications with costs.

4. Heard and perused the material placed on record. The following point that arise for my consideration:

1. Whether the defendants have made out sufficient grounds to allow the I.A No.2 filed under section 151 of CPC and I.A No.3 under order 18 Rule 17 R/w section 151 of CPC?

5. My answer to the above point is in the “**Affirmative**” for the following:

:REASONS:

6. POINT No.1: The present suit is filed by the plaintiff against the defendants for the relief of recover of money and such other reliefs. Now the case is posted for argument. In the meantime the present applications filed by the counsel for the defendants with a prayer to reopen and recall PW.1 for the purpose of cross-examination. The counsel for plaintiff has

opposed the applications denying the contention of the defendants and prays to dismiss the applications.

7. Taking into consideration of facts and circumstances of the case and all the materials on record this court consider view that in order to determine the matter in issue and in the interest of justice, an opportunity should be given to the defendants for cross-examination of PW.1. The defendants cannot be prevented from for cross-examination of PW.1, as they are having valuable rights in the present suit. Hence, as per well-settled law, every opportunity has to be afforded at the initial stage itself. It is the fact that the defendants have approached this court at the belated stage, hence for the same is to be penalized by imposing suitable costs. Hence, in order to decide the real controversy between the parties and avoid multiplicity of litigation, this court is of the considered opinion that, the defendants have to be given one more opportunity to cross examination of PW.1. It is made clear that no further opportunity is given to the defendants in future. Accordingly I answer point No.1 in the Affirmative and I proceed to pass following:

:ORDER:

I.A.No.2 and 3 filed by the counsel for the defendants under section 151 of CPC.,

and under order 18 Rule 17 R/w section 151 of CPC., are hereby allowed on cost of Rs.600/- together and thereby the plaintiff side evidence is reopened. Accordingly PW.1 is recalled for the purpose of cross-examination finally as last chance.

Call On: 07.09.2026

Sd/-

**Sr. Civil Judge & J.M.F.C
Channagiri**