

ORDER ON No.II and III

The present applications filed by the defendant No.3 U/o 18 rule 17 R/sec.151 of CPC., seeking permission of the court to reopen the case from the stage of arguments to cross of defendant .

2. In support of the application, the defendant No.3 sworn an affidavit on oath and stated that when the case is posted for cross of defendants she and her sister unable to attend the court thus the court cross of defendants taken as nill and posted for arguments. When the defendants attend the court the said fact came to their knowledge thus prays to reopen the case from the stage of arguments to cross of defendants. As they got good grounds to succeed. Hence, prays to allow the applications.

3. The learned counsel for plaintiff filed common objection to the IA No.II and III the defendant as sworn false affidavit and not make out any valued ground to allow the applications. To reopen the case from the stage of arguments to cross of defendants. The same is filed with and intention to drag on the proceeding of the court. Hence, prays to dismiss the application with cost.

4. Heard both the counsels on applications.

5. The point that is arise for my consideration;

POINTS

1.Whether this applications deserves to be allowed by re-opening the case from the stage of arguments to cross of DW.1 ?

2. What order?

6. My answers to the above points are as under.

POINTS

Point No.1: In the Affirmative

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

REASONS

7. Point No. 1: Admittedly this suit filed by the plaintiff seeking the relief of partition and separate possession in the suit schedule property. When the case is posted cross of DW.1 the DW.1 remained absent and no documents are placed in the evidence of DW.1 except her chief examination affidavit both the parties are failed to pay and duty and penalty prescribed the Deputy Registrar of Stamp Department. The applicant also not made out any specific grounds to recall the DW.1 for cross examination. Though he had not made any specific grounds in order to avoid multiplicity of proceedings as well to give one more opportunity to the defendants to place their defence. The present application deserves to be allowed. No doubt there is inordinate delay in proceedings same may be compensated by imposing cost. Hence, this court answered the point No.1 **in the Affirmative.**

8. Point No.2: In view of above said discussion and conclusion arrived at point No.1, this court proceed to pass the following:

ORDER

**IA No.II and III filed by the
defendant No.2 is hereby allowed
on cost of Rs.1,000/-.**

**The Dw.1 is re-called for cross
examination.**

The case is re-opened from the stage of arguments to cross of DW.1.

Learned counsels for plaintiff hereby complete cross of DW.1 on next date of hearing without fail. In order to avoid further delay. In the present case.

**For cross of DW.1 on cost
Call On:01.02.2025.**

**II Addl Civil Judge And Jmfc.
Channagiri.**

