

ORDER ON IA No.III & IV

When the case is posted for argument, the learned counsel for defendant has filed these IA No.III & IV U/Sec.151 of CPC. and U/order 18 rule 17 R/w sec 151 of CPC, seeking permission of the court to re-open the case from the stage of arguments to cross of PW-1 by recalling the PW- 1 for cross examination.

2. In support of these applications, the defendant No. 6 sworn common affidavit and stated that the plaintiff has filed

present suit against her seeking the relief of Declaration and possession. She was unable to appear before the court on previous hearing dates due to her ill health. She has good grounds to urge and to rebut the averments of the plaint. Hence it is just and necessary to cross examine the PW- 1, the said delay caused by her is bonafide one and not intentional. Thus prays to recall the PW-1 for cross examination by re-opening the case from the stage of arguments to cross of PW- 1. Thus prays to allow the applications.

3. The plaintiff has filed objections to these applications stating that, since from the 5 years the applicant remained silent when the case posted for argument, all of a sudden, she preferred these IA's on instigation of the Defendant No.1. who remained exparte. It is nothing but protract the court proceedings. Thus, prays to dismiss the IAs.

4. Heard from both side. Perused the application. On perusal of the application annexed with the affidavit, this court noticed that the common affidavit sworn by the defendant No. 6 and stated that the present suit filed by the plaintiff against them seeking the relief of Declaration and possession with respect to the suit schedule property.

5. Having taken note of the assertion of the affidavit and the facts of the case in the present case still judgment not passed. Hence, in order to give fullest opportunity to the both parties to prove their contentions and also to avoid multiplicity of proceedings in future, it is necessary to allow the applications.

However on perusal of order sheet it shows that the defendants are not deliberate in court proceedings which waste the precious time of the court. The suit filed by the plaintiff during the year 2021 in order to avoid further litigation and to adjudicate the matter on merits, it is necessary to allow the applications. No doubt inordinate delay is occurred through the defendants side same should be compensated by imposing cost on her. In order to avoid multiplicity of proceedings this court is of the opinion is that recall the PW.1 for tendering for cross examination is necessary. Thus, I am of the opinion that the applications are deserves to be allowed. Accordingly, the following;

ORDER

IA No.III & IV filed by the defendant No.6 are hereby allowed on cost of Rs.500/- condition upon defendant No.6 that she must proceed with the court proceedings and complete her cross examination of PW-1 within a month.

Accordingly, this case is re-opened from the stage of argument to cross examination of PW-1.

Accordingly, PW-1 is recalled for cross examination.

Both the counsels are hereby directed to co-operate with the court for early disposal of the matter as the matter is of the year 2021 which appears in 5 years old case list of the

court.

For cross of PW-1.

Call on 07-02-2026.

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