

KADG220041342021



**IN THE COURT OF THE II ADDL. CIVIL JUDGE & J.M.F.C.,
CHANNAGIRI**

-: PRESENT :-

**Kum. Shama Srivatsa,
B.A. LL.B. (Hon's) LL.M,
II Addl. Civil Judge & J.M.F.C.,
Channagiri.**

Dated: This the 15nd Day of November 2025

O.S.No. 299/2021

PLAINTIFF : Sri. Ashok Naik

V/s

DEFENDANTS : Smt. Suryaprabhavathi and others

I.A.NO.VI and VII

Applicant/ Defendants : Smt. Suryaprabhavathi and others

V/s

Opponents/ Plaintiff : Sri. Ashok Naik

1.	Provision under which the application is filed	I) Under Section 151 of CPC
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		II) Under Order 18 Rule 17 of CPC
2.	Relief sought for	Recall and reopen of stage for further chief of DW-1
3	Date on which the applications are filed	11.04.2025
4.	Number of the applications	I.A.No.VI and VII
5.	Date on which the objections are filed by different opponents	07.08.2025
6.	The date on which the orders is passed	15.11.2025

COMMON ORDER ON I.A.NO.VI AND VII

I.A.No.VI filed under Sec.151 of CPC to reopen the case for further chief of DW-1 and I.A.No.VII filed under Order 18 Rule 17 of CPC for recall of DW-1 to lead further chief examination. Both applications have been filed by the defendants at the **stage of judgment.**

2. Since the plaintiff filed common objection to both the applications. Moreover, both affidavits filed in support of the applications are having similar grounds and as such both applications have been taken for common order.

3. SOME AND SUBSTANCE OF THE AFFIDAVITS FILED IN SUPPORT OF I.A.NO.VI AND VII AS UNDER:

The defendant No.7 has sworn the affidavits and he has stated on oath that, the defendants have got good grounds to urge before the court. The defendants intended to propose some material

document which are essential to decide their case. At the time of argument it came to the knowledge of defendant that, amended plaint of OS No. 88/2021 was the main attested document but, the said document was not yet marked. If the applications are allowed no hardship or material injustice would be caused to otherside and hence he prays to allow both the applications.

4. STATEMENT OF COMMON OBJECTIONS FILED BY THE PLAINTIFF AS UNDER:

The learned counsel for plaintiff filed common objections to both the applications. He has contended that the applications are not disclosing sufficient grounds and just to fill up the lacuna in their evidence and as such the applications are filed to recall and reopen the DW.1 for the purpose of further chief examination. According to the counsel for plaintiff, the matter is set for judgment and at this stage the applications are not tenable, liable to be rejected.

5. Based on the rival contentions raised by the respective parties, the following points would emerge for my consideration;

POINTS

1. Whether the defendants have made out sufficient grounds to allow the I.A.No.VI and VII?
2. What order?

6. Heard the learned counsels appearing for the plaintiff and defendants. Perused the records and on perusal of the same, my findings to above said points are as under:

POINTS

Point No.1 : In the Affirmative,

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

REASONS

7. **Point No.1:-** The suit is filed by plaintiff seeking relief of declaration and permanent injunction claiming the possession in and over the suit schedule property.

8. The defendants having appeared, filed the written statement, they stoutly denied the contents of plaint. The suit property was not granted in the name of father and grand father of plaintiff. Thus, the defendants have prayed to dismiss the suit.

9. In the case on hand, the parties have already completed their evidence and have also placed oral as well as documentary evidence to the tune of their respective pleadings. Thereafter, the matter posted for arguments. Heard both sides. Thereafter posted for judgment and at that stage the present applications have been filed. The basic contention of the plaintiff to oppose these applications is, no sufficient grounds and no sufficient reasons as to the relevancy of

document is mentioned in the affidavits. As such the plaintiff prayed to reject the application.

10. Having taken note of the rival contentions of the plaintiff and defendants, it appears that, the plaintiff has categorically disputed the contents of both the applications. In that connection, defendant proposed the document by recall the DW-1 through these applications. In that connection, the defendants intended to recall the DW.1 and to reopen the matter for that limited purpose, only. Though the affidavits are not disclosing sufficient grounds, but document appears to be relevant for the claim of defendant.

11. In the aforementioned circumstances, it is apt to exercise discretionary power of the court to reopen the case to putforth material document of the party, in order to give a fair opportunity. Thus, the applications filed by the defendants are needs to be allowed for limited purpose of further chief examination of DW.1. It is also duty of the court that, the other side should be compensated by imposing sufficient cost to the defendant. As he filed the application at fag end of the matter nevertheless. Accordingly, the **Point No.1** held in the **Affirmative**.

12. **Point No.2:-** As a result, I proceed to pass the following:

ORDER

**The I.A.No.VI filed U/Sec.151 of CPC and
I.A.No.VII filed U/O.18 Rule 17 R/w sec 151**

**of CPC by the defendants are hereby allowed
on cost of Rs.500/-, each.**

DW-1 is recalled for further evidence.

(Dictated to the stenographer typed by her, corrected by me and then pronounced in the open court on this the **15th Day of November, 2025**)

Sd/-

(Shama Srivatsa)

**C/c II Addl. Civil Judge & J.M.F.C.,
Channagiri.**