

**IN THE COURT OF PRL. CIVIL JUDGE &
J.M.F.C. AT BELTHANGADY.**

Present:-
Sri.Sandesha.K.,MA.LLB
(Prl. Civil Judge & J.M.F.C., Belthangady)

Dated: 26th Day of September 2025

ORIGINAL SUIT No.321/2018

Plaintiff: Suresh Naik ,
S/o Jinnappa Naik,
Aged about 44 years,
R/at Minchinadka house,
Odilnala village,
Belthangady Taluk

(By: Sri. S.K.T., Adv.)

-:V/S:-

Defendants: 1. Smt. Girija W/o Babu Mera,
Aged about 50 yeas,
2. Smt. Kamala w/o Babu Mera,
Aged about 49 years,
3. Babu Mera S/o Putta,
Aged about 58 years,

D.1 to 3 are
R/at Minchinadka house,
Odilnala village,
Belthangady Taluk

(By: Sri. B.K.D.R. Adv.)

1.	Provision under which application filed.	Under section 151 of CPC
2.	Relief sought	Pray for reopen the case of defense evidence.
3.	The date on which application filed.	17.06.2025

4.	Number of application	IA No.X
5.	The date of which the objection filed by the respondent/ plaintiff	13.08.2025
6.	The date on which the order were passed on the said application	13.08.2025

ORDER ON I.A.No.X FILED BY
THE DEFENDANT UNDER SECTION
151 of CPC

The defendant has filed IA No.X under section 151 of CPC pray for reopen the evidence of the petitioner and permitted to petitioner lead further chief examination.

2. At the stage of cross of Dw-1, defendant has filed this application for reopen the case further chief examination of Dw-1.

3. In the affidavit filed in support of IA No.X the defendant No.3 sworn that, this court was pleased to close the further chief of Dw-1 and taken as nil and posted for cross examination of Dw-1, some documents are yet to be marked in the above case, therefore it is necessary to mark the documents to prove the case of the defendants this application is filed.

4. In return the learned counsel for plaintiff has filed objection to IA No.X and stated that, despite of giving sufficient opportunity Dw-1 has not lead further chief examination. In order to harass the plaintiff this application is filed. This application is against the code of Civil procedure. The reason

assign in the affidavit or false. Hence pray for dismiss the application with cost.

5. For disposal of I.A.No.X following points arise for consideration:

1. Whether the defendant No.3 has made out sufficient grounds to reopen the case for further chief examination?

2. What Order?

6. Both side have argued in par with their pleadings. Having heard arguments on both side, my findings to above points are:

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

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

REASONS

7. Point No.1:- Plaintiff has filed this suit against the defendants for the relief of permanent prohibitory injunction. After the suit is registered, suit summons came to be issued to the defendants. In pursuance of suit summons, the defendants are appeared before the court through their counsel and defendants have filed their detail written statement. Based on the pleading issues are framed. Thereafter plaintiff lead his evidence. After the evidence of plaintiff, case is posted for defendants evidence on 11.10.2023. Thereafter defendants got many adjournment and finally 3rd defendant has filed further chief examination on 16.11.2023 and 6 documents are got marked. Thereafter case is posted for further chief examination. On 08.02.2024 defendant has filed IA No.VIII for production of document, plaintiff has filed objection to said application, again

defendant has filed IA No.IX for production of document on 18.04.2024 said IA's disposed on merits on 07.01.2025, again defendant sought for many adjournment finally the prayer of the defendant is rejected on 21.06.2025 and case is posted for cross of Dw-1. Thereafter defendants have filed this application.

8. The submission of the defendants counsel is some documents are yet to be marked, therefore further chief of DW-1 is necessary, hence this application. Per contra submission of the plaintiff counsel is in order to harass the plaintiff defendants have filed this application. There is no valid reason in the affidavit filed in support of application. After giving sufficient opportunity Dw-1 has not utilized the said opportunity, hence pray for dismiss the application with cost.

9. Having hard the submission of the both counsel and perused the order-sheet it is reveals that, defendants have take many adjournment to lead their evidence and also filed two more application to production of document. Thereafter after giving sufficient opportunity defendants has not lead the further chief examination. Hence further chief of Dw-1 taken as nil on 21.06.2025. Since it is old case. Defendants have take many adjournment to lead the evidence, after giving sufficient opportunity defendants have failed to lead the further chief examination. In the application Dw-1 sworn that, some documents yet to be marked. But upon verify the order-sheet, it depict that, defendants has take sufficient time to lead further chief examination. When the Dw-1 is failed to lead the further chief examination, this court has closed the stage

and posted for cross of Dw-1. Thereafter Dw-1 has filed this application. In order to prove the defense of the defendants it is necessary to allow the application. Otherwise it will lead multiplicity of proceedings and to cause injustice to the defendants. If the application is allowed no hardship, injury cause to the plaintiff and moreover plaintiff has an opportunity cross examined the Dw-1. Without any adjournment Dw-1 has to lead the further chief examination on the next date of hearing. Accordingly, point No.1 is answered in the ***Affirmative.***

11. Point No.2:- On perusal of order sheet, it is observed that after giving sufficient opportunity Dw-1 has not lead the further chief examination. Therefore, defendants can be permitted to adduce further chief examination and sufficient cost must be imposed to discourage the defendants from seeking indefinite adjournments and to compensate the inconvenience suffered by the plaintiff. In the facts and circumstances of the case, it is deem fit to impose a cost of Rs.1000/- on the defendants. Accordingly in the light of above discussion this court proceed to pass the following:

ORDER

I.A.No.X filed by defendant No.3 under section 151 of CPC is hereby allowed on cost of Rs.1000/-and case is reopen.

(Dictated to the stenographer, directly on the computer, corrected and signed by me and then pronounced in the Open Court on this 26th day of September 2025)

(Sandesha. K.)
Prl. Civil Judge & JMFC.,
Belthangady