

**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE AND
CJM, DHARWAD**

PRESENT

**Sri. Venkanna B. Hosamani,
B.Com., LL.B.,(Spl.)
Prl. Senior Civil Judge and
CJM., Dharwad.**

O.S. No.152/2020

Dated this 11th day of August, 2026

PLAINTIFF/S : M/s Hotel Padmashri.

-Vs-

DEFENDANT/S : Sri. S. Ramchandrareddy S/o Chinnappareddy.

Parties to I.A. No.11

Applicant : Sri. S. Ramchandrareddy S/o Chinnappareddy.
(Deft.)

(By Sri S.B.N, Adv.,)

-Vs-

Opponent : M/s Hotel Padmashri.
(Ori.Pltf.)

(By Sri. P.S.U, Adv.,)

ORDERS ON I.A. No.11 FILED U/O 18 RULE 17 R/W

SECTION 151 OF CPC

That the applicant / defendant has filed this application
U/o 18 Rule 17 R/w section 151 of CPC seeking permission to

recall P.W.1 for cross-examination by setting aside the order dated 14/07/2026 in the interest of justice and equity.

2. In the annexed affidavit the defendant has stated that on 14/07/2026 due to unavoidable circumstances, the counsel could not attend the Court for cross-examination of P.W.1. Noticing the absence of counsel for the defendant, this Court has passed an order taking cross-examination of P.W.1 was nil. The non appearance on that day before this Court is neither intentional nor deliberate, but due to unavoidable circumstances and pray for allow the application.

3. The plaintiff has filed written objection and opposed the said application and contended that in paragraphs No.3 to 5 of the affidavit filed in support of I.A No.11 i.e., on 14/07/2026 due to unavoidable circumstances the counsel could not attend the Court for cross-examination of P.W.1 is not at all legally acceptable and bonafide ground or reason and same is highly vague and baseless and same cannot be accepted. The said fact disclose that the defendant is not due

diligent in prosecuting his case. Earlier this Court has rejected the I.A No.10 stating that the reasons stated in the memo of facts are not acceptable. Hence, he pray for rejection of the application.

4. Heard the arguments on both the sides and examined the materials placed on record.

5. The following points have arisen for consideration,

1. Whether the defendant has made out sufficient grounds to allow his application?

2. What order?

6. The points have been answered as under;

Point No.1 : In the Affirmative

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

: REASONS :

7. **Point No. 1:** Admittedly the suit is filed by the plaintiff against the defendant for possession. In this case issued are framed on 12/07/2021 and case was posted for evidence of plaintiff on 03/08/2021. The plaintiff was

regularly absent before this Court and on several times this Court has adjourned the case for the evidence of the plaintiff till 08/08/2023, it shows that the plaintiff has taken near about 2 years time to adduce his evidence.

8. On 08/08/2023, the plaintiff has filed his affidavit evidence and he has sought time for further chief-examination and again he has remained absent on several dates and his chief-examination was completed on 16/10/2024 and again case is posted for cross-examination of P.W.1 and he was remained absent on several occasions. Admittedly, the counsel for the defendant was not appeared before this Court and when the case was posted for cross-examination of P.W.1 on 14/07/2026 considering the same the cross-examination of P.W.1 was taken as closed.

9. Admittedly, the reasons stated in the accompanying affidavit filed by the defendant are not acceptable. It is the duty of the advocate to explain what were the compelling circumstances for him for non appearance before this Court.

However, if the application is allowed, no harm or injury will be caused to the plaintiff.

10. As per the provisions of Order 18 Rule 17 of CPC, The Court may at any stage of a suit recall any witness who has been examined and may put such questions to him as the Court thinks fit. In the present case, if the application is not allowed, there is an every chance to multiplicity of proceedings and it may cause monetary loss to both the parties as well as they may spent more time unnecessarily to get justice and on the other hand, if the application is allowed, it helps the Court to determine the real controversy between the parties. Accordingly, I am of the opinion that it is just and proper to allow the application by imposing reasonable costs. Hence, I answered point No.1 in **Affirmative**.

11. **Point No.2:** That for the reasons discussed supra, the following :

: O R D E R :

The I.A. No.11 filed U/o 18 Rule 17 R/w
Section 151 of CPC by the defendant is hereby

allowed with cost of Rs.1000/- subject to following conditions:

- 1) The defendant shall not seek any adjournments for cross-examination of P.W.1,
- 2) The defendant shall cross-examine the P.W.1 on next date of hearing without fail on appearance of P.W.1.

(Dictated to the Stenographer, transcribed and computerized by him, script corrected and then pronounced by me in the Open Court on this the 11th day of August, 2026)

(Venkanna B. Hosamani)
Prl. Senior Civil Judge & CJM.,
Dharwad.