

**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE, HUBBALLI**

Present:
Sri. Yamanappa Karehanumanthappa,
Prl. Senior Civil Judge, Hubballi.

OS No.49/2024

Dated this the 1st day of July - 2025

Plaintiffs : Sri. Amit S/o. Shridhar Kutte and others.

.Vs.

Defendants : Sri. Ajaykumar S/o. Bharamappa Kutte
and others.

PARTIES TO IA No.IV

Applicant : Sri. Ajaykumar S/o. Bharamappa Kutte.

.Vs.

Opponents : Sri. Amit S/o. Shridhar Kutte and others.

ORDER ON IA No.IV

The Advocate for defendant No.2 has filed this application to pass an order conducting cross-examination of DW.1 through video conference by appointing any advocate as co-ordinator to conduct video conference at the remote place of residence of DW.1 in the interest of justice and equity.

2. The defendant No.5 has sworn affidavit stating that his father is suffering from cancer and hit with paralysis and he cannot walk out of the bed. Hence, it is just and

necessary to conduct cross-examination of DW.1 through video conference by appointing any advocate as co-ordinator to conduct video conference at the remote place of residence of DW.1. Failure on the part of DW.1 to appear before the court to tender himself for cross-examination neither intentional nor deliberate. If the application is allowed no loss or prejudice will be caused to other side. Hence, prayed to allow the application.

3. The counsel for plaintiffs has filed objection to this I.A. contending that the contents of the application and affidavit are false and frivolous and not maintainable. Further contended that the defendant No.2 has been examined in chief as DW.1, at that time he was said to be alright and now within a span of 3 to 4 months he has suffered with cancer and paralysis and he has become unable to attend the court to undergo cross-examination. Such contentions are unbelievable. No single piece of document in respect of his sickness or treatment is produced. The defendant No.5 is sworn an affidavit on behalf of defendant No.2. The defendant No.5 swears that he is conversant with the facts and circumstances of the case, then what prevented the defendant No.5 not deposing him as DW.1. It can be presumed that something is going to be suppressed. No purpose of cross-examination will be served by video conferencing cross-examination cannot be done conveniently and accurately if the cross-examination is done through video conference. By video conferencing, more so

because of technical issues, neither question can be raised properly nor the same could be answered properly. Such things are not allowed on the peculiar issues of the case. Even there are ample chances of misunderstanding and miss-recording of the questions as well as answers. Hence, prayed to reject the application.

4. Heard and perused the records. The following points arise for my consideration:

1. Whether the defendant No.2 has made out grounds to allow the application?
2. What order?

5. My findings to the above points are as under:

1. In the Affirmative.
2. As per final order, for the following:

REASONS

6. **Point No.1:** The plaintiffs have filed suit against the defendants for the relief of partition and separate possession in respect of suit properties. Plaintiffs' side evidence is closed. The defendant No.2 is examined as DW.1. When the case was posted for cross-examination. The advocate for defendant No.2 has filed this application on 24.06.2025. The Advocate for plaintiff filed objection on 27.06.2025. As per medical report DW.1 is suffering from metastatic pancreatic cancer. When he was suffering from cancer his health is in critical condition and he is having

personal knowledge about facts of the case. Through video conference the cross-examination of DW.1 is recorded, it meets the ends of justice to the parties. In modern technicalities the evidence of witness recorded through video conference, it will save the time of the parties and moreover at this stage when the DW.1 is suffering from sever ill-health the court cannot compel him to brought to the court for cross-examination. Hence, I answer point No.1 in **Affirmative.**

7. **Point No.2:** In view of my answer to point No.1 as stated above, I proceed to pass the following;

ORDER

The I.A. No.IV filed by the defendant No.2 under Rule 6.1 of the Rules for Video Conferencing for Courts r/w. Section 151 of C.P.C. is hereby allowed.

Sri. S.V.S. Advocate is appointed as co-ordinator to conduct the video conference at the remote place of residence of DW.1.

(Dictated to the Stenographer directly on computer, computerized by her, script corrected directly on computer and then pronounced by me in the Open Court on this the **1st day of July – 2025**)

(Yamanappa Karehanumanthappa)
Prl. Senior Civil Judge, Hubballi.