

**IN THE COURT OF II ADDITIONAL SENIOR CIVIL JUDGE AND
J.M.F.C. HUBBALLI**

Present:- Smt. Deepa G Manerkar,
B.Com. LL.B, (Spl.)
II Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.

Dated this the 20th day of May 2026

MVC No.51/2019

Sri. Manjunath S/o Mallaraddy Sannaningammanavar

...Petitioner/s

-Versus -

C.V. Hiremath and other

.....Respondent/s

:: IA.No.IX TO XII ::

Sri. Manjunath S/o Mallaraddy Sannaningammanavar

Applicant /Ptr.

-V/s -

C.V. Hiremath and other

Opponent/Rts.

COMMON ORDERS ON I.A.NO.IX TO XII FILED UNDER
ORDER XVIII RULE 17 R/W SECTION 151 OF CPC,
U/SEC.151 OF CPC, U/O VII RULE 14 OF CPC AND
U/O 16 RULE 1 OF CPC

The present IA No.IX is filed by the petitioner U/o.18 Rule 17 R/w Section 151 of CPC to recall P.W.1 to lead further chief examination, I.A.No.X under Sec.151 of CPC to reopen the case and I.A.No. XI U/O VII Rule 14 to produce documents and I.A.No.XII U/o 16 Rule 1 of CPC to issue witness summons to witness to produce documents and lead evidence.

2. In the affidavit annexed to the present IAs it is commonly sworn by the petitioner that, the matter is posted for Judgment he intending to reopen and recall the P.W.1 to lead further evidence and to produce original documents which are very much necessary and relevant to decide the present case. Hence, it is just and necessary to summon the concerned doctor as mentioned in the application to produce relevant documents and to lead oral evidence. If the application is allowed no loss or hardship will be caused to other side on the contrary if the application is not allowed the petitioner will be put to substantial hardship and irreparable loss. Hence, prayed to allow the applications.

3. The counsel for respondent No.2 has filed common objections contending that the applications filed by petitioner to reopen the case to recall PW-1 to adduce further chief evidence and to produce the documents and to lead further witness evidence is not maintainable since already the case is posted for judgment. That the petitioners earlier has taken number of adjournments to lead evidence of petitioner and also number of times the case was reopened for further petitioner evidence when the hon'ble court has closed petitioner evidence number of times. The petitioner is in the habit of prosecuting his case as and when he intends and in spite of taking number of adjournments and prolonging the case from 2019 to 2026, still the petitioner is filing IA's to lead further evidence which clearly amounts to abuse of process of law as such all the applications deserves to be dismissed with heavy compensatory costs. That the petitioner already produced the disability certificate and also examined the doctor who has been cross examined and now petitioner again wants to file one medical certificate and to lead his evidence and witness evidence which is unwarranted and against law when the case is already heard and posted for arguments. It is pertinent

to know that earlier also the further evidence of petitioner and also evidence of doctor was lead by reopening the case from argument stage and this hon'ble court has allowed earlier application of the petitioner in the interest of justice by providing an opportunity to submit all his documents and evidence and accordingly the petitioner submitted all documents and lead evidence of doctor. Hence filing again same kind of applications is illegal and nothing but abuse of process of law as such applications are liable to be dismissed with heavy costs. That the petitioner since form beginning is in the habit of dragging the case which ultimately becoming burden on the insurance company to pay interest in the event of awarding compensation and so also the petitioner also taken many adjournments even after posting the case for arguments and thereafter after hearing arguments case was posted for judgement as such petitioner is not entitled to seek to reopen the case to lead further evidence. That without prejudice to above contention, it is submitted that in the event of allowing the applications by this hon'ble court, it is prayed to order that the petitioner is not entitled for the interest on the compensation amount for the adjournments he has

taken and heavy costs is to be imposed. Hence, prayed to dismiss the said IAs.

4. On the basis of rival contentions following the points that would arise for my consideration is:

:POINTS:

1. Whether the present applications deserves to be allowed?

2. What order?

5. Heard the arguments, perused the records, my answer to the above points is as follows:

Point No.1 : In the affirmative.

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

:: R E A S O N S ::

6. **POINT NO.1:** The present IAs have been pressed into service by the counsel for the petitioner to reopen the case and to recall the P.W.1 to lead further chief examination and to produce original documents and also wants to lead the evidence of doctor by summoning the said doctor stating that the documents intended to be produced are very much necessary and relevant

and evidence of doctor is also very much necessary to decide the present case.

7. The main objections raised by counsel for respondent No.2 that number of adjournments the petitioner earlier has taken is taken to lead evidence of petitioner and on number of occasions the case was reopened for further petitioner evidence and the petitioner is in the habit of taking number of adjournments and prolonging the case from 2019 to 2026 which clearly amounts to abuse of process of law.

8. I have gone through the order sheet on perusal of the same a number of occasions petitioner counsel has sought time to lead further evidence. After giving several opportunities the petitioner did not chose to lead further evidence hence, petitioner side evidence closed and when the matter was posted for judgment the present applications are filed. No doubt in the present case the present applications are filed by the counsel for petitioner when the matter is posted for Judgment however, it is well settled principle of law that lis has to be decided by giving opportunity to the parties to adduce or available evidence with them in support of their case. Denial of opportunity should not be ground for remand of matter in appeal. Therefore, in order to afford one more opportunity to the petitioner to lead further chief examination by producing documents and also give opportunity to the petitioner to lead evidence of doctor which will help the

petitioner in proving his claim. The present applications deserves to be allowed. However, delay which is caused to the other side can be met with by imposing reasonable cost. As such in order to meet the ends of justice the present applications are to be allowed. Accordingly point No.1 is answered in the **affirmative**.

9. **Point No.2:** In view of my findings on point No.1, I proceed to pass the following:

ORDER

I.A.Nos.IX to XII filed by the counsel for the petitioner U/o.18 Rule 17 R/w Section 151 of CPC, U/Sec.151 of CPC, U/O VII Rule 14 of CPC, U/O 16 Rule 1 of CPC are hereby allowed on cost of Rs.1,000/- each.

As a result, case is reopened for further chief examination of PW.1.

The documents produced under I.A.No.XI are taken on record subject to relevancy and proof.

Petitioner counsel is permitted to lead evidence of doctor after closing of evidence of P.W.1.

(Dictated to stenographer directly on computer, typed by her corrected and signed by me & then pronounced in the open court on this the 20th day of May 2026.)

Sd/-

(Smt. Deepa G Manerkar)
II Addl. Senor Civil Judge and JMFC
Hubballi.