

i.	Provision under which the applications are filed	U/o XVIII Rule 17 of CPC and Section 151 of CP
ii	Relief sought for	To recall DW1 for the purposed of further chief examination of the DW1 .
iii	The date on which the applications are filed	30.03.2024
iv	Number of the application	IA No.VIII
v	The date on which the order objections are filed by different opponents	Objection Not filed
vi	The date on which the order were passed on the said applications	16.04.2024

ORDER ON IA No.VIII

This I.A. No.VIII has filed by the Defendant No.2 counsel U/o.XVIII Rule 17 and section 151 of CPC praying to recall the DW2 for the purpose of further chief examination of the DW2.

2. In the affidavit it is stated that, the state bank manager was examined as DW2 on behalf of defendant No.2. During the evidence un - registered partition deed was produced. But due to non-payment of duty and penalty the

said un -registered partition was not marked. Which is necessary to prove the defendant case. If the application is not allowed, the defendant will put too much hardship and great injustice. On the other hand, there is no hardship will be caused to the other side. Hence prays to allow the IA.

3. The plaintiff has not filed objection.

4. Heard both side counsel.

5. The following points arise for my consideration they are as follow;

1. Whether these IA deserved to be allowed?

2. What order ?

6. My answer to the above points are;

Point No.1 : In the Affirmative

Point No.2 : As per order.

REASONS

7. Point No 1 :- This suit is filed by the plaintiff for the relief of partition and separate possession against the defendants. That the state bank manager was examined as DW2 on behalf of defendant No.2. During the evidence un -registered partition deed was produced. But due to non-payment of duty and penalty the said un -registered partition was not marked. Which is necessary to prove the defendant case. If the application is not allowed, the defendant will put too much hardship and great injustice. On the other hand, there is no hardship will be caused to the other side. But on perusal of order sheet on 12.01.2023 the bank manager was examined as DW2. Later after payment of duty and penalty the summons was issued to the DW2. After giving several opportunities the evidence of DW2 was dropped. Therefore the DW2 has caused delay of proceedings. The proposed document of un - registered partition deed is a public document and it can be permitted to marking in the evidence. Hence, I answer to the Point No.1 is in the Affirmative.

8. Point No.2:- For the above said reasons the following:

ORDER

The I.A. No.VIII filed by the defendant No.2 under Order XVIII Rule 17 and section 151 of CPC is hereby allowed.

DW2 is recalled and permitted to further chief examination of the DW2 on cost of Rs.1,000/- for causing delay.

Call on : 01.06.2024.

Addl. C.J and J.M.F.C.,
Arasikere.