



**IN THE COURT OF THE CIVIL JUDGE AND JUDICIAL
MAGISTRATE FIRST CLASS, SAVANUR.**

PRESENT : **Sri. Srinivasa. S. N,**
B.A., LL.M.,
Civil Judge and JMFC.,
Savanur.

O.S.No.118/2010

Dated, this day of 17th day of March, 2025

Plaintiffs : Sri.Dilerkhan
S/o Abdulkarimkhan Biradar & others

V/s

Defendants : Smt. Shahajadbegum M Biradar & others

PARTIES IN IA No.XLVI AND XLVII

Applicants: Sri.Dilerkhan
(Plaintiffs) S/o Abdulkarimkhan Biradar & others

V/s

Opponents: Smt. Shahajadbegum M Biradar & others
(Defendants)

i	Provision under which the applications are filed	IA-XLVI: U/O. XVIII Rule 17 R/w 151 CPC IA-XLVII: U/O. VII Rule 14 R/w 151 CPC
ii	Relief sought for	IA-LXVI: To recall DW-1 for cross-examination. IA-LXVII: To permit the plaintiffs to produce the document.



iii	The date on which the applications are filed	IA-XLVI:	06-02-2025
		IA-XLVII:	06-02-2025
iv	The date on which the objections are filed by different opponents	IA-XLVI:	10-03-2025
		IA-XLVII:	10-03-2025
v	The date on which the orders were passed on the said applications		17-03-2025

ORDER ON IA NO-XLVI AND XLVII

The plaintiff has filed I.A.No.XLVI U/O 18 rule 17 r/w Sec.151 of CPC for recall of the DW-1 for further cross examination and I.A.No.XLVII u/o 7 rule 14 r/w Sec.151 of CPC seeking permission to produce the documents with list of documents, in the interest of justice and equity.

2. It is stated in the annexed affidavit that, the plaintiffs were not appeared before the court. The Hon'ble Court has taken the further cross examination of the DW-1 as nil. Hence, the cross-examination of the DW-1 is necessary for proper adjudication of the suit. Therefore he prayed to recall the DW-1 for further cross examination of DW-1 and permit them to cross-examine the DW-1. They have also produced documents and contended that



those documents will help for proper adjudication of the suit. No prejudice will be caused to other side if the applications are allowed. If the same are rejected, plaintiffs would put to great hardship and injury. Accordingly, prayed to allow the applications.

3. The defendant No.1 and 2 has filed separate objections to the interim applications stating that, the applications are filed only to drag the matter. Further contended that the DW-1 has already been subjected to the cross-examination on seven separate occasions. This court has already given maximum time for the cross-examination of the DW-1, but the plaintiff has completed cross-examination of the DW-1. Further, they are posing irrelevant and repetitive questions that lack material pleadings to justify their relevance. For these reasons and Amongst other grounds prayed to reject the applications.

4. Perused the applications and the objection. Heard both the side.

5. The points arise for my consideration is as follows,

POINTS

- 1. Whether the plaintiffs have made out sufficient grounds to allow the IA No- XLVI and XLVII ?**
- 2. What order?**



6. My findings are as follows,

Point No-1 : In the Affirmative.

Point No-2 : As per following,

REASONS

7. **Point No-1** : The plaintiffs have filed this suit seeking for the relief to declare that the plaintiffs are legal heirs of deceased Nawazkhatu, declare the Judgment obtained by defendant No.1 in OS No.171/1984 on 30-10-1994 through fraud and restrain the defendant No.1 from claiming her as legal heir of deceased Nawazkhatu and for other reliefs. These applications have been filed at the stage of arguments.

8. The plaintiffs contended that the cross examination of DW-1 is necessary for proper adjudication of the suit. The further cross examination of the DW-1 is taken as nil by this court, therefore these applications have been filed by the plaintiffs to further cross examination of DW-1.

9. The defendant No.1 and 2 objected the same and submitted there are no reasons stated in the applications and this court has already given sufficient opportunities to the plaintiffs and to harass the DW-1 and to drag on the matter, the plaintiffs have filed these applications.



10. The plaintiff counsel argued that to substantiate their case on genealogy and to prove the case of the plaintiff, cross-examination of the DW-1 is necessary. The defendant No.1 and 2 contended that the DW-1 has already cross examined 7 occasions and already sufficient opportunities has been given to the plaintiffs to cross examine the DW-1. However, only on that reason the court cannot reject the applications. This court has already noted the conduct of the plaintiffs. The court has to give opportunity to the plaintiffs to prove their case. This court is bound to provide all the opportunities to the parties to prove their case in support of their contentions. In view of the aforesaid reasoning and discussions, it is clear that the applications filed by the plaintiffs deserves to be allowed. Accordingly, I answered **point No.1 in the Affirmative.**

11. POINT NO.2 :- In view of above said discussion and reasonings, I proceed to pass the following;

ORDER

I.A.No.XLVI U/O 18 rule 17 r/w Sec.151 of CPC is allowed on cost of Rs.1,000/- subject to condition that the plaintiffs shall complete the cross examination of DW-1 within one date of hearing without seeking any adjournment



and

I.A.No.XLVII U/O 7 rule 14 r/w Sec.151 of CPC is allowed on cost of Rs.1,000/- that the documents produced by the plaintiffs are taken on record subject to admissibility, relevancy and proof of documents.

(Dictated to the Stenographer on computer, corrected and initialed by me and then pronounced in the open court on this day of 17th March, 2025)

**(Srinivasa.S.N.)
Civil Judge and JMFC,
Savanur**