

Dated: 09-04-2025

ORDER ON MEMO DATED 01-04-2025

The learned counsel for the plaintiffs have filed memo dated 01-04-2025 seeking permission to withdraw I.A.No.49 filed under Order I Rule 10(2) CPC and I.A.No.50 filed under Order VI Rule 17 CPC, as not pressed, stating that the said applications suffer from technical defects. The plaintiffs also prayed for liberty to file fresh applications.

The learned counsel for defendant No.1 and 2 have filed objections opposing the memo, contending that no specific technical defects have been disclosed and sufficient cause has been shown. It was argued that the memo is an attempt to delay the proceedings. Therefore, he prayed to reject the memo and I.A.No.49 and 50 in the interest of justice and equity. They have filed objections to I.A.No.49 and 50.

Heard Sri.M.S.B. Advocate and Sri.S.K.Advocate on memo dated 01-04-2025 and perused the records.

On careful observation, it is observed that the applications I.A.No.49 and I.A.No.50 have not been decided on merits. The plaintiffs have expressed their intention to withdraw the said applications due to technical defects and have filed similar applications on the same day i.e., I.A.No.51 and 52. Although the memo does not mention the exact technical defects, the court

finds that the plaintiffs acted in good faith. The defendants have not demonstrated any prejudice or legal injury caused by such withdrawal. It is a well-established principle that an Interlocutory Application can be withdrawn before it is adjudicated on merits, especially when the request is made at a preliminary stage and no prejudice is caused to the opposite party. The present applications I.A.No.49 and 50 have not been argued or adjudicated on merits. Therefore, this Court is of the opinion that the memo deserves to be allowed in the interest of justice. In view of the above, the following;

ORDER

The Memo filed by the plaintiffs dated 01-04-2025 is hereby allowed.

Further the I.A.No.49 and 50 are treated as withdrawn as not pressed.

Issue Notice on I.A.No.51 to proposed defendant through RPAD, if PF paid.

For Objection to I.A.No.51 and 52 by the defendants.

Call on

CJ & JMFC, Savanur.