



**IN THE COURT OF THE CIVIL JUDGE & J.M.F.C.,
SAVANUR**

**PRESENT: SRI SRINIVASA. S.N.,
B.A., LL.M.,
Civil Judge & J.M.F.C.,
Savanur.**

O.S./187/2018

DATED THIS 6TH DAY OF FEBRUARY, 2025

PLAINTIFF: Ningappa S/o Dundappa Mallur

Vs

DEFENDANTS: Dundappa S/o Yallappa Mallaur and others

PARTIES IN IA-VIII AND IX

APPLICANT: Ningappa S/o Dundappa Mallur
[PLAINTIFF]

Vs

OPPONENT: Dundappa S/o Yallappa Mallaur and others
[DEFENDANTS]

i	Provision under which the applications are filed :	IA-VIII:- IA-IX:-	U/S. 151 CPC U/O. 18 Rule 17 R/w Section 151 CPC
ii	Relief sought for :	IA-VIII:- IA-IX:-	To re-open the case of for cross-examination of DW-1. To re-call the DW-1 for cross-examination



iii	The date on which the applications are filed :	
	IA-VIII:-	21.03.2024
	IA-IX:-	21.03.2024
iv	The date on which the objections are filed by opponents:	
	IA-VIII:-	21.08.2024
	IA-IX:-	21.08.2024
v	The date on which the orders were passed on the said applications	06.02.2025

ORDER ON IA NO-VIII AND IX

The plaintiff has filed Interim Application I.A.No.VIII U/Sec-151 of CPC with a prayer to re-open the case of for cross-examination of DW-1 and I.A.No.IX U/o 18 Rule 17 with a prayer to re-call the DW-1 for cross-examination, in the interest of justice and equity.

2. It is stated in the annexed affidavit that, the plaintiff has not made cross examination of the DW-1. The Hon'ble Court taken the cross examination of the DW-1 as nil on 23-02-2024. Hence, the cross-examination of the DW-1 is necessary for proper adjudication of the suit. Therefore he prayed to reopen the case for cross examination of DW-1 and permit him to cross-examine the



DW-1. No prejudice will be caused to other side if the applications are allowed. If the same is rejected, plaintiffs would put to great hardship and injury. Accordingly, prayed to allow the applications.

3. The defendant No.6 has filed objections stating that, the applications are not maintainable. It is not supported by acceptable reasons. This court has already given maximum time for the cross-examination of the DW-1, but the plaintiff has not cross-examined the DW-1. Hence, this court taken the cross-examination of DW-1 as Nil. On these 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 plaintiff has made out sufficient grounds to allow the IA No-VIII to IX?

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 : On perusal of the documents, plaintiff has filed this suit against the defendant seeking for the relief of partition and separate possession and for other reliefs. These applications have been filed at the stage of arguments.

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

9. The defendant No.6 objected the same and submitted there are no reasons stated in the applications and this court has already given sufficient opportunities to the plaintiff and to harass the defendant No.6 and to drag on the matter the plaintiff has filed these application.

10. The plaintiff counsel argued that to substantiate his case and to prove the case of the plaintiff, cross-examination of the DW-1 is necessary. The defendant No.6 contended that already given sufficient opportunities has been given to the plaintiff to cross examine the DW-1 but failed to do so. However, only on that



reason the court cannot reject the applications. The court has to give opportunity to the plaintiff to prove his case. This court is bound to provide all the opportunities to the parties to prove their case in support of their contentions. Hence, these applications deserves to be allowed. Accordingly, I answer the above **Point No.1 in the Affirmative.**

11. Point No-2 : As per the following,

ORDER

IA No.VIII and IX are hereby allowed on cost of Rs.500/- each subject to condition that the plaintiff shall complete the cross examination of DW-1 within one date of hearing without seeking any adjournment.

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