

COMMON ORDER ON IA NO-5 AND 6 FILED UNDER  
SECTION 151 OF CPC AND  
ORDER 18 RULE 17 R/W SECTION 151 OF CPC.

1.	Provision under which the application is filed	Section 151 of CPC and Order 18 rule 17 of CPC.
2.	Relief sought for	Re-call of the stage of the case and permission to further cross examine the Pw-1 by recalling the Pw-1.
3.	The date on which the application is filed	28-02-2026
4.	Number of the application	I.A.No-5 and 6.
5.	The date on which the objections are filed by different opponents	Oral objections on 07-03-2026
6.	The date on which the orders were passed on the said application	17-03-2026.

The advocate for the defendant No-1 and 2 has filed the present applications praying to recall the stage of the case from the defendants' side arguments to the stage of further cross of PW-1 and permission to further cross examine the PW-1 by recalling the Pw-1.

2. The advocate for the defendant No-1 and 2 has filed the memo of facts in support of the present applications. The advocate for the defendant No-1 and 2 has contended that, the defendant No-1 is residing in Mumbai and the defendant No-2 is residing abroad. The cross examination of the plaintiff was completed on 25-07-2024. The defendant No-3 to 5 have filed counter claim in the present suit. The defendant No-3 to 5 have cross examined the PW-1 on 18-03-2025. The defendant No-1 and 2 were not having the knowledge of filing of the counter claim by the defendant No-3 to 5. The defendant No-1 and 2 are required to counter to the counter claim of the defendant No-3 to 5. The defendant No-1 and 2 are required the further cross examination of the PW-1. The plaintiff and defendant No-3 to 5 are colluded with each

other. The mother of the parties has already partitioned the properties and gold of the mother was given to the share of the defendant No-3 to 5. On the said material grounds the advocate for the defendant No-1 and 2 has prayed for allowing the present applications.

3. The advocate for the plaintiff orally objected to the applications by denying the grounds of the applications. He has contended that, at this stage the applications are not maintainable and the defendant No-1 and 2 in order to delay the matter have filed the present applications. On the said material grounds the advocate for the plaintiff has prayed for rejection of the present applications.

4. Heard the arguments.

5. Perused the records the plaintiff has filed the present suit for the relief of partition and separate possession against his brother and sisters. The defendant No-1 and 2 have filed the present applications at the stage of the arguments of the

defendant No-1 and 2 side. The advocate for the defendant No-1 and 2 cross examined the PW-1 in part on 29-01-2025. Thereafter, on 18-03-2025 the further cross of PW-1 by the defendant No-1 and 2 side is taken as nil. The advocate for the defendant No-3 to 5 cross examined the PW-1 on 18-03-2025. Thereafter, 38 dates were given in the present suit. The defendant No-1 also got examined as DW-2 on 19-09-2025 and led his evidence. The defendant No-3 has led her evidence as DW-1 on 02-07-2025 on the counter claim.

6. On considering the materials on record it appears that, the defendant No-1 and 2 are not diligent in prosecuting their case. The grounds made out by the advocate for the defendant No-1 and 2 are not sufficient to recall the PW-1. The advocate for the defendant No-1 and 2 has not made out any grounds for recall of the PW-1. The defendant No-3 to 5 have filed their counter claim on 13-10-2023. They have also cross examined the PW-1. They have also led their evidence. Hence the ground that the defendant no-1 and 2 did not know of filing of counter claim by the defendant no-3 to 5 is not acceptable

one. Further filing of counter claim by the defendant no-3 to 5 is not a ground to recall the Pw-1. The defendant no-1 and 2 kept quit for 38 adjournments and filed the present application when the matter reached the stage of arguments of the defendant no-1 and 2. Hence considering the conduct of the defendant no-1 and 2 also they are not entitled for any discretionary relief. Hence, on considering the materials on record I am of the opinion that, the defendant No-1 and 2 have not made out any grounds for the allowing the present applications. Hence the present applications are required to be rejected.

Hence, the I.A.No-5 and 6 filed by the advocate for the defendant No-1 and 2 are hereby rejected.

For arguments of the defendant no-1 and 2 side if any.

Senior Civil Judge and JMFC,

Afzalpur.