

**ORDER ON INTERIM APPLICATION No.V and VI FILED BY THE
DEFENDANT No.5 UNDER SECTION 151 OF CPC AND UNDER ORDER 18
RULE 1 AND 2 CPC CIVIL PROCEDURE CODE, 1908**

1. This is an interlocutory application filed by the defendant No.5 praying to recall the PW1 for cross examination in the interest of justice and equity.

2. The defendant No.5 has stated that on cross examination of PW1 taken as nil. It is further stated if the said witness are recalled for cross examination no prejudice will be caused to the other side. Hence the defendant No.5 intend to cross examine PW1. Therefore he prays to allow the application.

3. The counsel for the plaintiff filed objections to the application contending that the application is filed with an intention to drag on the proceedings. It is contended that no reasons are assigned for recalling of PW1. This court has given sufficient opportunity. Hence sought for rejection of application.

4. Heard arguments of learned counsel for the plaintiff and counsel for the defendant No.5. Perused the materials.

5. On the basis of the above pleadings and on hearing both sides, the following points arise for my consideration.

- 1) Whether the application filed by defendant No.5 to be allowed?
- 2) What order?

6. My findings on the above points are as under:

Point No:1 : In the Affirmative.

Point No.2: As per final order for the following:

REASONS

7. **Point No.1:-** The suit is for relief of Partition and Separate possession. The present application are filed by the defendants when the matter was posted for arguments. Perusal of the entire order sheet shows that the plaintiff has already partly cross examined PW1 and when the matter was posted for arguments the present application is filed. The contents of the affidavit filed by the defendant appears to be genuine. Thus in the interest of justice and to avoid multiplicity of proceedings application is allowed. In the light of above reasons I answer Point No.1 in the Affirmative.

8. **Point No.2:-** As I have answered point No. 1 in the Affirmative for the foregoing reasons, I proceed to pass the following:

ORDER

I.A No.V and VI filed Under U/sec. 151 of CPC by the defendant No.5 is allowed on cost of Rs.500/-.

PW1 is recalled for cross examination.

For cross examination of PW1 finally.

Call on 27-01-2025.

**Senior Civil Judge & JMFC,
Chincholi.**