

Date: 15.06.2026

COMMON ORDER ON I.A.NO.VI AND VII

The defendant NO.2 has filed instant applications U/o XVIII Rule 17 R/w 151 of CPC seeking reopen the plaintiff side evidence and another application U/o XVIII Rule 17 R/w 151 of CPC for recall of PW-1 for the purpose of cross examination.

In the affidavit annexed to the instant applications the defendant No.2 similarly contended that, this court has close the plaintiff and defendant evidence on last date of hearing. Further it is contended that the counsel for defendants is unable to appear before the court as he is not feeling well from 15 days, therefore the counsel for defendants unable to cross examine PW.1. The non appearance of their counsel is not an intentional one but due to said bonafide reasons. The cross examination of PW.1 is very necessary to decide the matter in controversy. The suit is in respect of immovable property and the valuable rights of defendant No.1 is involved in the above case. On these grounds prayed to allow the applications.

Per contra, the counsel for the plaintiff filed common objection and stated that, the defendant prays time for objection and the court has granted the same on cost of Rs. 200/- and posted for cross on 01.09.2025. Thereafter, cross of PW.1 is taken as nil. Meanwhile, the defendant filed IA No.IV and V which is came to be allowed on cost of Rs. 500/- each and the case is posted for cross of PW.1 on 09.09.2025. On 18.09.2025 the plaintiff present and the defendant present and counsel for defendant prays time and the court has taken the cross of PW.1 as nil and posted the case for further evidence. Thereafter, case is posted for argument. On 14.10.2025 the defendant filed the instant application which are not maintainable. Already this court has given sufficient opportunities to the defendants for cross examination. The reason shown in the said IA are concocted and created one. The defendant has filed the instant application and taking the time on one or another reasons in order to drag on the matter. Hence, prayed to reject the applications.

Heard and perused the material on record.

The following point arises for my consideration.

“Whether the defendant No.1 has made out grounds to reopen plaintiff side evidence and recall PW-1 for cross examination”

My answer to the above point is in **Affirmative** for the following:

REASONS

The plaintiff has filed the instant suit for the relief of perpetual injunction against the defendant. The defendants have appeared through their counsel and filed the written statement and contested the suit of the plaintiff. Thereafter, the case was posted for cross of PW.1 on 08.04.2025 inspite of sufficient opportunity granted by this court the defendant have not come forward to cross examine PW.1 therefore this court has taken cross of PW.1 as nil and case is posted for further plaintiff evidence. Since, the counsel for plaintiff submitted no further evidence hence matter is posted for defendant evidence on 24.06.2025. Meanwhile, the counsel for defendant filed applications for reopen of plaintiff side evidence and recall of PW.1 which were came to be allowed on cost of Rs. 500/- each. Inspite of that, the defendants have failed to cross examine the PW.1 hence the cross examination of PW.1 is taken as nil again on 18.09.2025 and case is

posted for defendant evidence and thereafter, for argument. Meanwhile, the defendants has brought the instant applications and prayed to reopen the plaintiff side evidence and recall of PW.1 for cross examination. The counsel for plaintiff submitted that, already sufficient time is granted to the defendants for cross examination. Hence, prayed to reject the application.

Perused, the material available on record. On perusal this court is of opinion that, one opportunity has to be given to defendants for cross examination of PW.1 in order to avoid multiplicity of litigations. If the applications are allowed no harm or prejudice would be caused to the plaintiff. However, the objection raised by the plaintiff can be met by imposing necessary cost for causing delay in the proceedings. With these observation, I answer point No.1 in affirmative and proceed to pass the following:

ORDER

The applications filed by the defendants No.1 U/o XVIII Rule 17 R/w 151 of CPC and under order XVIII Rule 17 R/w 151 of CPC hereby allowed on cost of Rs.1000/- each.

Resultantly, the plaintiff side evidence is reopened and PW.1 is recalled for cross examination.

O.S.No.19/2023

For payment of cost on cross of PW.1.

Call on:03.00 pm.

Sd/-

Civil Judge, Sedam