



**IN THE COURT OF THE CIVIL JUDGE & JMFC, AT
KUSHALNAGAR**

: PRESENT :
Smt.Chaithra L , B.B.M., L.L.B.,
CIVIL JUDGE & JMFC.,
AT KUSHALNAGAR

DATED THIS THE 27th DAY OF MARCH 2026

O.S./30/2022

PLAINTIFF/S: M. Rajendran
(By Sri.MEM Adv.)

-V/s-

DEFENDANT/S: H.E Sidda @ Siddaiah and others
(D-1 Exparte, D-2 Sri MYB /GCR Adv
and D-3 Sri JVK Adv.)

PARTIES TO I.A.No.XXVI and XXVII

Askarali @ Arjuna : Applicant/Defendant

-V/s-

M. Rajendran : Opponent/Plaintiff

ORDERS ON I.A No.XXVI and XXVII

The learned counsel for the Defendant has filed I.A. Nos.
XXVI under Section 151 CPC and under Order XXVII Rule 17



read with Section 151 CPC, seeking recall of DW.1 and allow him to give further evidence.

2. In the affidavit filed in support of the applications, the defendant No.3 contends that he could not produce certain documents, on the earlier hearing dates and he has made application for the production of the same and the application is allowed it is just and necessary for him get the same marked and it is just and expedient to recall him to adduce further evidence and if the application is not allowed he will be put to grave hardship and legal injury and on the other hand no prejudice will be caused to the plaintiff if the application is allowed. Hence this application.

3. The plaintiff has filed objections contending that the application is not maintainable either in law or facts and the said applications are filed only to clarify the doubt and fill up the lacuna. Entertaining such application will cause serious prejudice to the plaintiff and the suit has already progressed to the advance stage of cross of DW1. Hence prays to dismiss the applications.

4. Heard the arguments of both sides.



5. The point that arises for consideration is that:-

1. Whether the defendant has made out sufficient grounds to re-open the stage and recall D.W.1 for giving evidence as prayed for?

2.What Order?

6. My finding to the above point or as follows:

Point No.1 :- In the Affirmative,
Point No.2 :- As per order
for the following;

Reasons

7. Defendant No.3 filed these applications seeking to recall DW1 for adducing further evidence. Order XVIII Rule 17 CPC and Section 151 of CPC empowers the Court to recall any witness at any stage of the proceedings either suo motu or on the application of a party. The object of the provision is primarily to enable the Court to clarify any ambiguity in the evidence and not to fill up lacunae. However, if the proposed chief examination has a bearing on the just decision of the case, the Court may permit recall.



8. In the present case, the counsel has assigned bona fide reasons for seeking recall and he has not produce the documents along with the applications. Therefore, to avoid multiplicity of proceedings and in the interest of justice, the applications deserve to be allowed. **Accordingly, Point No.1 is answered in the Affirmative.**

PointNo.2:-

9. In view of the reasons assigned above I proceed to pass the following:-

ORDER

I.A.No.XXVI and XXVII filed by the defendant No.3/applicant U/S 151 CPC and U/O 18 Rule 17 R/W 151 CPC praying to re-open and recall to submit D.W.1 for chief examination is allowed.

For further chief of DW1.

(Dictated to the Stenographer, transcribed by her, corrected and signed by me and then pronounced in open court on 27th day of March 2026)

Sd/xxx

**(Chaithra L)
Civil Judge & JMFC,
KUSHALNAGAR .**