

COMMON ORDERS ON I.A. IV
AND V.

These I.As filed by the defendant/applicant U/o XVIII Rule 17 R/w sec. 151 of CPC and under section 151 of CPC seeking to re-open the case for the purpose of his evidence and re-call PW-1 for the purpose of cross examination.

2. In the affidavit the defendant/applicant submitted that, as his counsel was not keeping well, he was not able to attend the court and was not able to cross-examine Pw-1 on 21.02.2026. As such, the Hon'ble court was pleased to pass orders taking the cross examination of Pw1 as nil. Further stated that, he will be put to great hardship and inconvenience if Pw1 is not cross examined. Hence he pray this Hon'ble court to grant leave to cross examine the Pw1 in the interest of justice.

3. Further stated that, the absence of his counsel before this Hon'ble court on the previous dates of hearing is not intentional but for the above bonafide reasons. If the application is not allowed, he will be put great hardship and inconvenience. Hence, prayed to allow the applications.

4. On the other hand learned counsel for the plaintiff file consolidated objection and contended that, the applications filed by the defendants are not tenable either under law or on facts, hence, the same are liable to be dismissed with costs.

5. Further contended that, the Hon'ble Court had granted many adjournments to the defendant to cross examine the PW1, however, the defendant did not come forward to cross examine him. Hence, the Hon'ble Court was pleased to take the cross examination of the PW1 as Nil. Thereafter, the defendant had filed the similar applications for re-open and recall of PW1 for the purpose of conducting the cross examination of PW1, the Hon'ble Court in order to extend the one more opportunity to him was please to all the applications, despite the same and also many adjournments, the defendant did not come forward to cross examine the PW1, hence, the Hon'ble was pleased to take the cross examination of PW1 as nil.

6. It is respectfully submitted that, defendant neither cross examined nor led his side evidence, however had indulged in dodging the proceedings on the one or other pretext by abusing the process of law.

7. It is respectfully submitted that, the conduct of defendant itself demonstrates the fact that, he is only interested to drag the proceedings and nothing else and the same is writ large on the face of the record.

8. It is respectfully submitted that, the conduct of the defendant in dragging proceedings at his whims and fancies is highly reprehensible and as such his applications may kindly be dismissed with costs.

9. It is respectfully submitted that, the Hon'ble Court has already heard the arguments of the plaintiffs on merit and this defendant is not assisting the Hon'ble Court in proceeding with the case in accordance with law.

10. It is respectfully submitted that, viewed from any angle, the applications filed by the defendants do not deserve to be allowed and thus, liable to be dismissed with costs. Hence prays to dismiss the applications.

11. Heard both side. Perused entire record.

12. Order sheet reveals that for the first time the cross of PW.1 was taken as nil on 29.09.2025. Thereafter

when the matter is set down for the arguments on 07.11.2025 the defendant filed similar applications which was allowed on cost on 15.11.2025. on 24.01.2026, 07.02.2026, 13.02.2026 and 20.02.2026 though the PW.1 is present the counsel for defendant pray time. Hence the cross of PW.1 taken as nil on 20.02.2026. The present applications were filed when the matter is set down for arguments of defendant on 24.02.2026. Though know grounds made out by the defendant, to provide opportunity the applications can be allowed subject to payment of cost. Hence, I proceed to pass the following:

ORDER

I.A Nos. IV filed Under order XVIII rule 17 R/w Section 151 of CPC and IA No.V filed under Section 151 of CPC filed by the defendant are hereby allowed on cost of Rs.500/- each.

Case of the defendant is reopened. PW1 is recalled. For cross of PW.1 and cost.

Call on 28.03.2026.

Sd/-
Judge,
Court of Addl. S.C., & MACT
Mysuru