

**Order on I. A.No.XIII to XV**

The application I.A.No.XIII is filed by the defendant No.2 U/sec.151 of CPC to re-open the case, I.A.No.XIV is filed U/O 18 Rule 17 of CPC to re-call DW-1 for his further examination and I.A.No.XV is filed U/O 16 Rule 1 and 2 of CPC to receive the list of witnesses filed on behalf of defendant No.2.

2.All the applications are supported by affidavit of the defendant No.2 and it is sworn that since on last date of hearing, the defendant No.1 was absent and therefore she could not lead her evidence and the evidence of defendant was closed. It is further stated that the [examination](#) of witnesses is very much necessary to prove the defence of the defendants. Hence prayed to reopen the case for further evidence of defendant No.2 and also prayed to receive the list of witnesses.

3. The plaintiff counsel has filed objection to the applications and it is stated that when the case is adjourned for arguments, the defendant No.2 has filed present application to drag the proceedings. It is also stated that the defendant counsel has cross-examined PW-1 and suggested about all the documents produced by the plaintiff and there is no requirement of reopen the case. Hence prayed to dismiss the applications with cost.

4. Heard the arguments of counsel for both parties.

5. The defendant No.2 has filed the present applications to reopen the case for the purpose of further evidence of DW-2.

On perusal of the order sheet since 05.08.2023 to 23.08.2023 the case was adjourned for defence evidence but defendants did not lead further evidence and hence their further evidence was taken as nil. Now the defendant No.2 has filed present applications to reopen the case for his further evidence.

6. By considering the reasons stated in the application, one more opportunity should be given to the defendant No.2 to examine said witnesses by reopening the case. No doubt there is delay in filing the present applications but in the interest of justice and for the final adjudication of dispute, one more opportunity should be given to the defendant No. 2 to examine the witnesses. The inconvenience caused to the plaintiff could be compensated by imposing suitable cost. Hence this court proceed to pass the following:

### **ORDER**

**The applications I.A.No.XIII to XV filed by the defendant No.2 U/sec. 151 of CPC, U/O 18 Rule 17 of CPC and U/O 16 Rule 1 & 2 of CPC are hereby allowed with the cost of Rs. 500/- out of which Rs.300/- should be paid DLSA and Rs 200/- to plaintiff.**

**The case is reopened for further evidence of defendant No.2 and DW-1 is recalled to record her further evidence.**

**For further defendant No.2 evidence.**

**Call on : 20.01.2024.**

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 06<sup>th</sup> day of January, 2024)

**(Sandesh Prabhu. B)**  
**Senior Civil Judge & J.M.F.C**  
**H.D.Kote**