

OS No.87/2023

**IN THE COURT OF ADDL. SENIOR CIVIL JUDGE AND JMFC.,
AT HUNSUR,**

**Presided Over by Bhagyamma
B.com. L.L.B.,**

Dated, this the 21st day of June 2025

OS No.87/2023

Plaintiff : Sri. Huchamma

.Vs.

Defendant : Smt. Thayamma and others

IA No.IX and X

Applicant : Sri. Manjunathadefendant No.15

.Vs.

Opponents : Sri. Huchamma

ORDERS ON IA IX and X

At the stage of defense evidence, the learned counsel for defendant No.15 filed these I.As. U/Sec. 151 CPC to reopen the stage from the defendant's evidence and U/O 18 Rule 17 R/W/Sec.151 of CPC to recall of PW1 to lead cross-examination in the interest of justice.

2. On the other hand, the learned counsel for the plaintiff has filed common objection on the said IAs and stated that the applications are filed only to drag the proceedings. Hence, prayed to dismiss IAs with cost.

3. Heard and perused the applications, affidavits and objections filed by the parties.

4. Now the points that would arise for my consideration is as under:

Whether the defendant No.15 has made out ground to reopen the case and recall of PW1 as prayed in IAs?

5. My finding to the above is in the affirmative for the following:

REASONS

6. The defendant No.15 has stated on oath in the affidavits annexed with IAs that, the plaintiff has filed this suit against him and others seeking the relief of partition and separate possession in respect of suit schedule properties. It is stated that he could not contact his counsel well in time to give proper instructions in order to lead cross-examination of PW1, wherein this court has taken the cross-examination of PW1 as nil on behalf of defendant No.15, but he has good ground against the case of plaintiff and it is necessary to cross-examine PW-1. Hence, he sought for recall of PW.1 by reopening the case from the stage of defendant evidence, it is just and necessary to bring out the truth and to arrive at a just and equitable conclusion in this case. It is no doubt that, the plaintiff has filed common objections to the said applications and stated that, the applications are filed only to drag the proceedings. It is no doubt that, the case has been posted for defendant evidence. On perusal, the witness PW.1 has not been

cross-examined on the part of defendant No.15 by rejecting the prayer of his counsel as already sufficient opportunities were given. But at this juncture, it is just to allow the applications in order to avoid multiplicity of proceedings and to meet the ends of justice. If the applications are rejected, the defendant No.15 will be prejudiced to disprove the plaintiff's case and in order to determine the real controversy arose between the parties. Therefore, it is just to accept applications prayer by over ruling the objection raised by the plaintiff's side. However, IAs filed by the defendant No.15 are deserved to be allowed by imposing cost. **Hence, the above point is answered in the affirmative.**

7. In the result, I proceed to pass the following;

ORDER

I.A.IX and X filed by the defendant No.15 are hereby allowed on cost of 300/-.

Consequently, PW.1 is recalled and to keep present the witness for cross-examination.

Ret by: 01.07.2025

**Addl. Sr. Civil Judge & JMFC
Hunsur.**