

ORDERS ON IA No.XII and XIII

The Counsel for plaintiff No.3 has filed IA No.XII under Section 151 of CPC for reopen the case and IA No.XIII under Order 18 Rule 17 of CPC prays for seeking permission to lead evidence of the plaintiff.

2. In the affidavits which enclosed to IA No.XII and XIII it is stated that, the plaintiffs have filed present suit against the defendants for the relief of partition and separate possession with respect to the schedule properties. Due to the ill-health, he has not appeared before this court to lead his evidence on the date of hearing. Hence, now he is able to lead his evidence before this court. Accordingly, he prays for allow the applications.

3. On the other hand, the defendant No.2 has filed objection to the applications and contended that, the applications filed by the counsel for plaintiff are not maintainable and further contended that the plaintiff has not given any reasons for his earlier non-appearance of the plaintiff to lead evidence. Further, the plaintiff has not produced any supporting documents that he was suffering from ill-health and he was not able to obtain necessary documents from revenue documents. Hence, prays for reject the applications.

4. Heard arguments.

5. Perused the material available on record. It could be seen that, the plaintiffs have filed the suit against the defendants for the partition and

separate possession with respect to the suit schedule properties.

6. On the other hand, the defendants have appeared before this court through their counsels and filed written statement by denying the case of the plaintiffs. On the basis of rival pleadings of the parties, this court has framed necessary issues and conducted trial. When, the case was posted for defence evidence on counter claim, the present applications were filed.

7. Further the record shows that, admittedly the plaintiff has not been examined before this court in order to prove the averments of the plaint. Moreover, it is not proper to curtail the parties from producing respective evidence on technical grounds. Therefore, this court is of the opinion that it is just and necessary to reopen the case to lead evidence of the plaintiff. However, on perusal of order sheet, this court noticed that, he caused delay by filing these applications for that the plaintiff has to compensate by way of cost to the defendants. Hence, keeping in view of the facts and circumstances of the case, the applications filed by the plaintiff are allowed on cost of Rs.300/-.

For plaintiff evidence by:
04.02.2026.

**Sr. Civil Judge and JMFC,
K.R.Nagar.**