

**ORDERS ON IA No.XII and XIII**

The Counsel for defendant No.1 has filed IA No.XII under Section 151 of CPC for reopen the case and IA No.XIII under Order 18 Rule 17 R/w Section 151 of CPC prays for recall the PW-1 in order to further cross-examination of PW-1.

2. In the affidavits it is stated that, the plaintiffs have filed present suit for the relief of partition and separate possession with respect to the schedule properties. The PW-1 has not been fully cross-examined. At the time of cross-examination, certain questions on facts could not be put to the witness. Therefore, in order to prove their case, the cross-examination of PW-1 is very necessary. Accordingly, prays for allow the application.

3. On the other hand, the plaintiffs have filed objection to the applications and contended that, this court has given sufficient opportunity to defendant No.1 to conduct the cross-examination and the PW-1 and has fully cross-examined by the defendant No.1, when the case was posted for defendant's evidence, the present application was filed with intention to drag on the court proceedings. Hence, prays for reject the application.

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 counsel 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 defendant's evidence, the present applications were filed.

7. Further the record shows that, the PW-1 has been partly cross-examined on 23.09.2022 by the defendant. On the said date, the counsel for defendant prays time to further cross-examination of PW-1 and at request of the counsel for defendant No.1, this court adjourned the case for further cross-examination of PW-1.

8. In the affidavit it is stated that at the time of cross-examination, he was left out of the some important questions with respect to his defence and not posing to the PW-1. On the other hand, plaintiffs stated that this court has given sufficient opportunity to the defendants to conduct the cross-examination. Instead of leading defendant's evidence, he has filed the present application with intention to the drag on the court proceedings.

9. No doubt, the present applications were filed when the matter was posted for defendant's evidence. The suit was filed in the year 2019. The defendant No.1 caused delay by filing these applications for that he has to

compensate by way of cost to the plaintiffs. Hence, keeping in view of the facts and circumstances of the case, the applications filed by the counsel for defendant No.1 are allowed on cost of Rs.500/-. Hence, the PW-1 is recalled subject to further cross- examination on next date of hearing without fail.

For further cross of PW-1 by:  
09.10.2025.

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