

ORDERS ON IA Nos.XIII to XV

The Counsel for the 1st plaintiff has filed IA No.XIII under Section 151 of CPC for reopen the case, IA No.XIV under Order 18 Rule 17 R/w Section 151 of CPC prays for recall the PW-1 in order to further chief-examination and IA No.15 under Order 7 Rule 14(3) R/w Section 151 of CPC for production of documents.

2. In the affidavit it is stated that, the plaintiffs have filed the suit against the defendants for the relief of declaration and permanent injunction with respect to plaint schedule properties. Due to oversight, he could not able to produce the documents mentioned in the list. The said documents are very relevant to prove the facts assertions made by the plaintiffs. Therefore, the recall of PW-1 is very necessary to prove their case. Therefore, the plaintiffs have prays for allow the applications.

3. On the other hand, the defendants have filed objection stating that, the applications filed by the plaintiffs are not maintainable both in law or facts and the trial was ended and posted for arguments on merits. At this stage the present applications were filed and further stated that, the documents submitted by the plaintiffs along with applications were already produced by the defendants which are marked at Ex.D1 to D22. Therefore, the applications are not maintainable. Accordingly, 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 relief of declaration and permanent

injunction with respect to the schedule properties. Further the record shows that, the trial was concluded and case posted for arguments.

6. The plaintiffs have come up with these applications for reopen the case and recall the PW-1 in order to further chief examination. Perused the documents which produced along with the applications and it could be noticed that these documents have not been produced earlier stage and the said documents are relating to the suit schedule properties. The plaintiffs have stated that, the said documents have not been produced at earlier stage due to oversight. 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 recall the PW-1 in order to further chief examination.

7. However on perusal of order sheet by this court it is noticed that, the plaintiffs caused delay by filing these applications for that the plaintiffs have to compensate by way of cost to the defendants. If the applications are allowed, the defendants have got right to cross examine the PW-1. Hence, keeping in view of the facts and circumstances of the case, the applications filed by the plaintiffs are allowed on cost of Rs.1,000/-. Hence, the PW-1 is recalled subject to further chief examination on next date of hearing without fail.

For further chief of examination of PW-1 by: 04.11.2024.

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