

ORDERS ON IA No.XXII AND XXIII

The Counsel for defendant No.3 has filed IA No.XXII under Section 151 of CPC for reopen the case and IA No.XXIII under Order 18 Rule 17 of CPC prays for recall the PW-1 in order to cross-examination.

2. In the affidavits which enclosed to IA No.XXII and XXIII it is stated that, the defendant No.3 has not been cross-examined to the plaintiff and no offer given to the defendant to conduct the cross-examination of PW-1. Hence, the cross-examination of PW-1 is necessary. Accordingly, he prays for allow the application.

3. On the other hand, the plaintiff has filed objection to the applications and contended that, the applications filed by the counsel for defendant No.3 are not maintainable and further contended that the defendant No.3 has not given any reasons in the affidavits to recall the PW-1 in order to cross-examination. Hence, prays for reject the applications.

4. Heard arguments.

5. Perused the material available on record. It could be seen that, the plaintiff has 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 plaintiff. On the basis of rival pleadings of the parties, this court has framed necessary issues and conducted trial. When, the case was posted for arguments, the present applications were filed to recall the PW-1 in order to cross-examination.

7. Perused the deposition of PW-1. It is noticed that the defendant No.1 and 2 have been cross-examined to the PW-1. But, the defendant No.3 has not cross-examined to the PW-1. Hence, in order to prove the defence of the defendant No.3, the cross-examination of PW-1 is necessary. 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 in order to cross-examination of the PW-1.

8. However, on perusal of the order sheet, this court noticed that, he caused delay by filing these applications for that the defendant No.3 has to compensate by way of cost to the plaintiff. Hence, keeping in view of the facts and circumstances of the case, the applications filed by the defendant No.3 are allowed on cost of Rs.1,000/-. Accordingly, the PW-1 is called.

For cross of PW-1 by: 16.03.2026.

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