

KAMS410047882021



**IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,  
KRISHNARAJANAGAR**

**PRESENT**

**Sri. Chandan S, B.Com., LL.B**

**Prl. Civil Judge & JMFC, Krishnarajanagara.**

**DATED 05<sup>TH</sup> DAY OF JANUARY 2026**

**O.S./487/2021**

**Plaintiffs : Puttaswamygowda and others**

**-V/s-**

**Defendants : Thayamma and others**

**I.A. No.6 & 7**

**Applicant : Thayamma**

**--- 1<sup>st</sup> Defendant**

**-V/s-**

**Opponents : Puttaswamygowda and others**

**--- Plaintiffs**

Provision under which the application is filed	U/o 18 R-17 of C.P.C. and Sec.151 of C.P.C.
Relief sought for	To recall PW-1
The date on which the both applications are filed	08.09.2025
Applications Number	6 & 7
Date on which the objections are filed by the different opponents	18.12.2025

Date on which the order is passed	05.01.2026
-----------------------------------	------------

**ORDER ON I.A. NO.6 AND 7 U/O 18 R-17 OF C.P.C. AND SEC.151 OF C.P.C.**

These two applications which were incepted, introduced filed and they were submitted before this court seeking leave permission grant and also sanction of this court in order to permit the defendant/applicant so as to facilitate and enable and provide an opportunity to conduct cross-examination of PW-1 by re-opening the matter.

**2.** Further the applicant/defendant No.1 while presenting the said application, he has separately adduced and presented his 2 independent affidavits, wherein he could specifically assert, plead, state and present in the form of his sworn statements that, the suit is one which had been incorporated and registered for the relief and claim for partition and separate possession. The plaintiff laid, presented and adduced his examination-in-chief and when the matter was listed and posted for cross-examination of PW-1, due to unforeseen events, inevitable and on account of the some illness, sickness and health hazards, the defendant did not consult the counsel so as to provide and instruct him necessary information so as to conduct cross-examination which resulted and ended in the cross-examination of the PW-1, eventually it has been taken as nil.

**3.** Further according to the applicant/defendant, the said non examination, cross-observations, checking and verification of the PW-1 is neither willful nor intentional or purport and intended one. Therefore, it is according to the applicant, the cross testimony of the witnesses so as to shake, trouble, tumble, topple, extract, estreat and cull-out the actual facts, matrix materials and realities before this court is very essential, necessary, primal, phenomenal, integral and very just and apt to decide the actual and exact real conflicts and disputes between the parties.

**4.** Further it has been hermetically and tautly contended that, some of the very credential, important, crucial and necessary information has to be estreat, expelled, ousted, culled out and it has to be brought out from the mouth of the PW-1. Therefore, such cross-examination so as to test the credibility, veracity, demeanor, suitability, genuinity, reliability, belief, confidence and worthiness of the witness testimony is very necessary for the applicant to conduct and proceed for cross-examination of the PW-1. Therefore, the cross-examination may be accorded, extended and provided to the applicant/defendant in order to adjudicate the actual, real and materialistic dispute and to settle all the issues and to clear the doubts, obfuscation, darkness, dejectness and dusk covered over the issues raised and recorded

before this court. Hence, the applicant seeks the leave of this court to recall the PW-1 for the purpose of his cross-examination.

**5.** On the contrary, retorting, dissenting, contorting and confronting the said application, the plaintiff filed his statement of objections, wherein they have specifically, declined, denied and tautly, hermetically, zippily, candidly, acutely, stably, sustainably and they firmly dissented, negated and denied the pleadings, descriptions which were disclosed explained and predicated in the affidavits. Wherein, the statement of objections, which was filed by the opponent/plaintiff would reveal, emanates, discloses and emerges that, the applications are not maintainable as they were lodged and introduced with false, frivolous, untenable, haphazard, kook, fragmented, absurd and vague one as they are filed only with an solemnly intensity and with a single agenda to procrastinate, linger and not to expedite the proceedings of the suit so as to put an end to the litigation.

**6.** Further it has been submitted and stated by the opponent/plaintiff that, the defendant/applicant has been already sufficiently provided, adequately, amply, enormously and sufficiently he was given time. But the applicant even after utilizing the exerting making use of all the numerous, occasions

and time, he did not choose to conduct any cross-examination. Eventually, this court ultimately it has taken the cross-examination of the PW-1 as nil after exhausting and even after providing sufficient, ample, bulk, numerous, gallant and multiple opportunities to the applicant/defendant, they failed in all the opportunities to further proceed to conduct cross-examination, but the application is filed with false, frivolous, vague, untenable and unsustainable pleadings which are not supported with documents. Therefore, according to the plaintiff/opponent, the application would not sustain and therefore, they are liable for dismissal.

7. Heard the rival counsel appearing for the parties regarding the applications and also the objections of the plaintiff.

8. The following points arise for this court's consideration.

**1) Whether applicant has made out sufficient grounds for allowing the present applications?**

**2) What Order?**

9. This court findings on the above points for consideration are as under:

**Point No.1: In the Affirmative**

**Point No.2: As per the final order for the following:**

**REASONS****10. POINT NO.1:**

This court has already referred, verified, scrutinized and gone through the material documents and other details which were contended in the application, affidavits and statement of objections filed before this court. Further on looking into these aspects from all the angles, facet, facade and completely it is clear that, the suit is one which was introduced, brought and submitted before this court by the plaintiff herein for the relief of partition.

**11.** Further the plaintiff has already adduced, submitted and presented his affidavit along with certain documents in support and his reliance of his claim and pleadings which are already marked before this court. Further when the matter was taken up for cross-examination, this court has given multiple numerous and ample opportunities. However at last, the cross-examination of PW-1 is taken as nil. Further these applications were applied and advanced before this court so as to recall the PW-1 to facilitate, provide and enable the applicant/defendant for the purpose of conducting cross-testimony, checking and observations in order to test the grit, demeanor, integrity, trustworthiness and suitability of the testimony of the PW-1.

**12.** Further it is also been noticed as could be seen from the affidavits that, the said none prosecution of the PW-1 his due unforeseen event which has compelled, forced and necessitated the applicant/defendant to approach his counsel to provide and furnish necessary information. Further it is because of his deteriorated health conditions and on account of his inevitable and unavoidable situation, context and circumstances, the applicant was undergone, it has become very pathetic, difficult and very hard for the applicant which prevented and prohibited the applicant so as to approach his counsel to furnish and explain details for the purpose of his cross-examination.

**13.** Therefore according to the applicant, such none cross-examination of the PW-1 is not deliberated, intentional, willfully or intended one. If the cross-examination is allowed, it is certainly largely effect on the very roots and layer of the suit. Therefore according to the applicant, the cross-examination of the PW-1 would certainly facilitate, enable, help, conduce and assist the court to adjudicate, decide and ascertain the real clogs, antecedents, disputes, conflicts and differences between the parties, involved in the suit. Further in the event if the applicant is not allowed to conduct examination of the PW-1 it would result and causes greater hardship, impairment, impediment, irreparable loss and injury which cannot be compensated in terms of money.

**14.** Therefore according to the applicant, the said cross-examination is in deed absolutely desperate and very just, apt and essential for adjudicating and deciding the actual and real dusk, mounts, darkness, clouds, dejectness, obfuscations and ambuscade which are covered over the pleadings of the plaintiff and the defendants. Although, the opponent/plaintiff has also apposed the said application by presenting his statement of objections, that itself would mainly emphasizes and stresses upon already providing sufficient opportunities and multiple grants and permissions so as to conduct the cross verification and examinations are concern, this court is of the considered, express view and opinion that, in order to decide the suit more effectively, eventually and to provide pious equal, legible and lawful opportunities so as to ensure free and fair opportunities to the respective parties, it must not restrict, curtail and prohibit the rights of the parties, in order to facilitate them to submit their evidence either oral form or in terms of documentary method to establish, prove, vouch, authenticate and substantiate their pleadings of the plaint with fair and proper opportunities. Further, the fair, transparent and proper opportunities includes and it owes, suitable and sufficient opportunities.

**15.** Therefore considering all these prospects, aspects, substance and credentials, this court is of the very strong,

opinion and decision that, the applicant may be allowed and permitted so as to let, allow and permit the applicant/defendant No.1 to proceed further with one more opportunity so as to facilitate him for the purpose of cross-examination of PW-1.

**16.** Therefore with the above observations, reasons, discussion, deliberations and also the explanations made above, this court is of the very firm and convincing opinion that, the applicant may be allowed with another opportunity to proceed further in the matter so as to conduct initiate and complete the cross-examination on the date of the appearance of the PW-1 without claiming or soliciting any further time on any filmy, uncertain and in an any enigmatic manner. Hence, this court without further discussion proceeds to answer point No.1 in the **affirmative**.

**17. POINT NO.2:**

In view of the above discussion and reasons mentioned therein this court proceeds to pass the following:

**ORDER**

The I.A. No.6 and 7 filed by applicant/defendant No.1 U/o 18 R-17 of C.P.C and U/s 151 of C.P.C. are hereby allowed on cost of Rs.200/-.

Accordingly, the applicant is permitted to lead evidence without claiming and praying for any time on the date fixed by this court.

**(Chandan S)**  
**Prl. Civil Judge & JMFC.,**  
**K.R.Nagar.**