

**OS.No.191/2013**

**COMMON ORDERS APPLICATION UNDER  
ORDER 18 RULE 17 R/W SECTION 151 OF  
C.P.C AND UNDER ORDER 8 RULE 1A(3) R/W  
SECTION 151 OF C.P.C.**

The defendant has filed application under Order 18 Rule 17 R/W Section 151 of C.P.C seeking to Re-call D.W.1 for further examination-in-chief, so also filed another application under Order 8 Rule 1A(3) R/W Section 151 of C.P.C seeking to condone the delay in producing the documents.

In the similar affidavits accompanying the said application sworn in by the defendant it is submitted that, the plaintiff had filed suit against the defendant for the relief of Permanent Injunction, wherein the defendant has examined as D.W.1 and since some of the documents which were misplaced during the course of his chief-examination were recently traced. It is necessary to produce the said document in support of his case. Hence, prayed to allow the applications by re-calling the stage for further chief-examination of D.W.1.

The said applications have been resisted by the plaintiff by filing separate objection, wherein the plaintiff has contended that, the defendant has not assigned any tenable grounds to allow the applications. Further it is contended that, the said applications have been filed only to fill-up the lacuna and to harass the plaintiff. As such, prayed to dismiss the applications.

The perusal of the record it reveals that, the defendant has filed the applications at the stage of further defendant evidence. Though the plaintiff has contended that, the said applications has been filed by the defendant only to fill-up the lacuna there is no impediment in allowing the application. Moreover the plaintiff would get an opportunity to cross-examine the D.W.1 on those documents and only on that ground the applications cannot be rejected. All the dispute in controversy has to be finally adjudicated, without giving an opportunity for further remand of the case, if failed to give an opportunity to lead evidence. Moreover, if the said application is disallowed it would definitely cause multiplicity of

proceedings causing delay in disposal of the present case. As such, I am of the considered view to allow the applications. Accordingly, I proceed to pass the following ;

**ORDER**

The applications filed by the defendant under Order 18 Rule 17 R/W Section 151 of C.P.C and under Order 8 Rule 1A(3) R/W Section 151 of C.P.C are hereby allowed.

**Civil Judge & JMFC.,  
T. Narasipura.**

Call on for further chief-examination of D.W.1 finally by :  
23.09.2022.

**Civil Judge & JMFC.,  
T. Narasipura.**