

**Orders on I.A filed u/Sec.151 of CPC and u/O.18**

**R.17 of CPC**

1. The counsel for the Defendant No.2 filed these applications seeking reopening of the case and recall for cross examination of PW.1.

2. In support of the applications the defendant No.2 has filed affidavit stating that the suit is for Injunction. On the previous occasion, due to his ill health, he remained absent before this court and accordingly, he has not instructed his counsel and due to his absence, this court posted this matter to defendant evidence by defendant side, he want to cross-examination of PW1 by their side, in order to prove his contention taken in this case. In the above circumstances, the order passed by this court is liable to be recalling. No prejudice or loss will be caused to the other side if the annexed application is allowed. On the other hand, if the same is refused, he will be put to great loss and hardship which cannot be compensated by any means. Hence prayed for allowing these applications.

3. The counsel for the plaintiff filed objections stating that the defendant No.2 have not cross examined PW1, even after giving sufficient opportunity and took adjournments. This application is preferred at the belated stage only to drag on the matter. The reasons assigned by the defendant No.2 are not sufficient. The plaintiff is the age old person

and also she is suffering from age old disease and hence prayed for dismissal of the application.

4. Heard and perused.

5. The following point arises for my determination;

“Whether the plaintiffs made out sufficient grounds to reopen the case and recall the chief examination of PW.1 as sought for?”

6. My answer to the above point is in the “affirmative”, for the following;

### **REASONS**

7. I have gone through the application and objection and the materials on record. The defendant No.2 sought for reopening the case for the purpose of cross examination of PW.1. To decide the dispute between the parties the cross examination of PW1 is necessary and if an opportunity is given to the defendant No.2 for cross examination of PW.1 no loss or hardship is going to be caused by the plaintiff when compared to that of defendant No.2. No doubt the delay is caused by

the defendants but delay will not only be the criteria to reject the application as it can be meet out by imposing heavy cost. Therefore, I answer this point in the affirmative and proceed to pass the following;

**ORDER**

The application filed by the defendant No.2 u/Sec.151 & u/O.18 R.17 r/w.Sec.151 of CPC are allowed on cost of Rs.500/- payable to the PW1.

For cross examination of the PW.1.

Call on 14.06.2023.

Addl. Civil Judge & JMFC,  
Channapatna.