

COMMON ORDERS ON I.A.No.10 & 11

The defendant No.2 has filed the I.A.No.10 U/S.151 of C.P.C., to reopen the above case for further chief-examination of DW-1 and I.A.No.11 U/O.13 Rule 1 & 2 r/w. 151 of C.P.C., with a prayer to be pleased to condone the delay if any in filing the documents.

2. The copies of I.As., were served to the other side. The counsel for the plaintiffs has filed the objections and resisted the I.As., filed by the defendant No.2.

3. Heard arguments on both sides.

4. On perusal of the rival contentions and other materials placed on record, the following points that would arise for my consideration are :

1) Whether the I.A.No.10 & 11 filed by the defendant No.2 are deserve to be allowed?

2) What order?

5. My findings on the above points are as follows :

Point No.1 : In the Affirmative,

Point No.2 : As per the final Order,

for the following:

REASONS

6. **POINT NO.1:-** When the matter is set down for cross-examination of DW-1, at that time the defendant No.2 has moved these I.As., to reopen the case for further chief-examination of DW-1 and also to condone the delay if any in filing the list with documents. It is urge of the defendant No.2 that, when the matter set-down for further chief-examination of DW-1 on that day he could not appear before this Court and he could not secure the

documents as mentioned in the I.A., due to his ill-health, those documents are very much necessary to prove the case of the defendant No.2.

7. On the other hand, the plaintiffs have contended that, when the matter was posted for cross-examination of DW-1, at this stage the defendant No.2 has filed this applications only with an intention to drag the proceedings and moreover the applications filed by the defendant No.2 is barred by Limitation and the defendant No.2 has not assigned any valid grounds to allow the aforesaid I.As.

8. Admittedly, it is a suit for declaration and injunction in respect of suit schedule property. In order to prove the defense of the defendant No.2, is always lies upon the defendant No.2. Under these facts and circumstances, the one more opportunity would be given to the defendant No.2 to lead further chief-examination of DW-1 and the delay if any is condoned in filing the documents by imposing cost, it would meet the ends of justice. If these I.As., are allowed and defendant No.2 has marked the documents mentioned in the I.As., as exhibits of 'D' series, certainly the counsel for the plaintiffs would get an opportunity to cross-examine the DW-1 with regard to the documents mentioned in the I.As. If these I.As., are allowed, there is no hardship cause to the other side. For considering all these reasons, I answer point No.1 in the 'Affirmative'.

9. **POINT NO.2:-** In view of my findings on Point No.1, I proceed to pass the following :

ORDER

I.A.No.10 & 11 filed by the defendant No.2 are hereby allowed on payment of cost of Rs.300/- each.

The case is reopened for further chief-examination of DW-1.

For further chief of DW-1 call on 11.12.2025.

**(SHIVAKUMAR.R)
ADDL. SR. CIVIL JUDGE &
J.M.F.C., MAGADI.**