

COMMON ORDERS ON I.A.No.12 to 14

The plaintiffs have filed the I.A.No.12 U/S.151 of C.P.C., to reopen the above case for further chief-examination of PW-1 and I.A.No.13 U/O.18 Rule 17 r/w. 151 of C.P.C., to recall the PW-1 for further chief-examination of PW-1 and I.A.No.14 U/O.7 Rule 14(3) of C.P.C., along with list with documents and prayed 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 defendants have not filed objection, after providing sufficient opportunity and more over the counsel for the defendants have not addressed the arguments on I.As. Hence, the matter is posted for orders on I.A.No.12 to 14. However, liberty is given to the defendants' counsel to submit written submissions if any before office on or before 09.12.2021, but the counsel for the defendants failed to do so.

3. Heard arguments on plaintiffs' side.

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.12 to 14 filed by the plaintiffs 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 arguments on merits, at that time the plaintiffs have moved these I.As., to reopen the case for further chief-examination of PW-1, to recall the PW-1 for further chief-examination and to condone the delay if any in filing the list with documents. It is urge of the plaintiffs that, the plaintiffs intended to mark as exhibits, those documents recently obtained by the plaintiffs from the concerned authority. Hence, those documents are very much necessary to prove the case of the plaintiffs. Admittedly, it is a suit for partition, in a suit for partition, the burden of proof is always lies upon the plaintiffs. Under these facts and circumstances, the one more opportunity would be given to the plaintiffs to lead further chief-examination of PW-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 plaintiffs have marked the documents mentioned in the I.As., as exhibits of 'P' series, certainly the counsel for the defendants would get an opportunity to cross-examine the PW-1 with regard to the documents mentioned in the I.As. If these I.As., are allowed, there is not hardship cause to the other side. For considering all these reasons, I answer point No.1 in the 'Affirmative'.

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

ORDER

I.A.No.12 to 14 filed by the plaintiffs are hereby allowed on payment of cost of Rs.1,000/- each.

The case is reopened for further chief-examination of PW-1, subject to condition the plaintiffs shall lead the

further chief-examination of PW-1 in the next date of hearing without fail. If the plaintiffs failed to do so, this order automatically stand canceled.

Call on for further chief-examination of PW-1 by 17.12.2024.

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