

22.04.2025

Plt:- Sri. M.C.H. Adv.,

D1(a to d) & D7 to 11:- Sri. R.K. Adv.,

D3 to 6, D12 to 14 & 17:- Exparte

D15:- Dead

D2(a to c):- Absent

For orders on I.A.No.22 & 23

COMMON ORDERS ON I.A.No.22 & 23

The defendant No.7 to 11 have filed the I.A.No.22 U/S.151 of C.P.C., to reopen the above case for further chief-examination of DW-1 and I.A.No.23 U/O.18 Rule 17 r/w. 151 of C.P.C., to recall the DW-1 for further chief-examination.

2. The copies of I.As., were served to the other side. The counsel for the plaintiffs has filed the common objections and resisted the I.As., filed by the defendants.

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.22 & 23 filed by the defendants 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, the defendant No.7 to 11 have moved these I.As., to reopen the case for further chief-examination of DW-1 and to recall the DW-1 for further chief-examination. It is urge of the defendant No. 7 to 11 that, when the matter is set down for further chief-examination of DW-1, the DW-1 could not able to appear before this Court due to ill-health.

Hence, the further chief-examination of DW-1 taken as nil. Marking of the documents is very much necessary to defend the case of the defendants No.7 to 11.

7. On the other hand, the plaintiffs contended that, the defendants No.7 to 11 have filed this I.As., only with an intention to drag the proceeding and further contended that, in spite of providing sufficient opportunities, the DW-1 has not lead further chief-examination. Hence, the defendant No.7 to 11 have not made out any valid grounds to allow the I.As.

8. On perusal of the materials placed on record, admittedly it is a suit for declaration and injunction in respect of suit schedule properties. In the instant suit the plaintiff sought to reopen the above case for further chief-examination of DW-1 and to recall the DW-1 for further chief-examination with an intention to mark the documents on behalf of defendant No.7 to 11 side. Under these facts and circumstances, the one more opportunity would be given to the DW-1 to lead further chief-examination of DW-1 by imposing cost, it would meet the ends of justice. If these I.As., are allowed, there is no hardship caused 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.22 & 23 filed by the defendant No.7 to 11 are hereby allowed on payment of cost of Rs.250/- each.

The case is reopened for further chief-examination of DW-1 by 02.06.2025.

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