



O.S. No.474/2012

IN THE COURT OF THE ADDL. CIVIL JUDGE AND
JMFC., Sira

Present: **Sri. Narasimhamurthy A.** B.A.,LL.B.,

Addl. Civil Judge & JMFC., Sira.

Dated this the **5th** day of **February 2025**

O.S. 474/2012

Plaintiffs: 1. B.P. Siddaiah dead by his Lr's,
(a) Narasimhaiah,
Aged about 58 years,

(b) Anusuyamma
S/o Late B.S. Shivanna,
Aged about 48 years,

(c) B.S. Gowtham S/o Late Shivanna,
Aged about 29 years,

(d) B.S. Ullas S/o Late Shivanna,
Aged about 24 years

All are R/at Bukkapatna, Bukkapatna
Hobli, Sira taluk, Tumakuru District.

(By Sri.B.J.R., Advocate)

-V/s-

Defendants: 1. Narsimhaiah dead by his Lrs,
1(a) Rangamma
D/o Late Narasimhaiah,
Aged about 50 years,

1(b) Ratnamma W/o Rangappa,



O.S. No.474/2012

D/o Late Narasimhaiah,
Aged about 30 years,
R/at Goraladaku,
Javanagondanahally Hobli,
Hiriyur Taluk.

1(c)Manjula D/o Late Narasimhaiah,
Aged about 28 years,

1(d)Shivakumara
D/o Late Narasimhaiah,
Aged about 26 years.

1(a), (c) and (d) are the R/at
Bukkapatna Village, Bukkapatna
Hobli, Sira Taluk, Tumakuru District.

2. Naganna S/o Late Narasimhaiah,
Aged about 55 years,
3. Rangashamaiah
S/o Late Narasimhaiah,
Aged about 48 years,

All are R/at Bukkapatna village,
Bukkapatna Hobli, Sira Taluk,
Tumakuru District.

(Defendant By Sri. V.S.R., Advocate)

I.A. No. XI and XII

Applicant : Syed Abid Furqaan.... Defendant No.1

-V/s-

Opponents : Srinivasaiah Plaintiff



ORDER ON I.A.s UNDER ORDER XVIII RULE 17 AND U/Sec 151
OF C.P.C. FILED BY THE PLAINTIFF

The Plaintiff has filed this applications to re-open the case and to recall D.W-2 and 3 for the purpose of Cross-examination.

2. The copies of the both the applications served on the other side. The counsel for the defendants filed objections to the said applications.

3. The Plaintiff has sworn to the affidavits of both the applications taking common contentions stating that the Plaintiff have filed this suit for Declaration and Permanent Injunction against the defendants. That when the matter was set down for the Cross-examination of DW-2 and 3 on the previous hearing dates, the plaintiff has not cross examined to DW-2 and 3. It is not intentional but bona-fide reasons. Hence, the plaintiff has filed this application seeking permission to reopen the case and recall D.W-2 and 3 for their cross-examination. Hence, prays to allow both the applications.

4. The Defendants have filed common objections to both the applications contending that the IA.s filed by the Plaintiff is not maintainable either in law or on facts. That the Plaintiff has not shown any reason to recall D.W-2 and 3 for cross examination. That this Court has already granted sufficient opportunity to the plaintiff for cross-examination of D.W-2 and 3. Under these circumstances, the applications filed by the plaintiff is liable to be rejected wit exemplary cost. Hence the Defendants prayed to dismiss both the applications.



5. Heard both sides.

6. On considering the rival pleadings of the parties, the points that would arise for my consideration are as under:

1. Whether the applications filed by the Plaintiff under Order XVIII Rule 17 and I.A. filed under Sec.151 of C.P.C. deserves to be allowed ?

2. What Order ?

7. My answer to the above points is as under:

POINT No.1 : In the Negative

POINT No.2 : As per final order for the following;

REASONS

8. Point No.1 :- Admittedly the Plaintiff has filed suit for Declaration and Permanent Injunction against the Defendants. On perusal of the order sheet, it is noted that the case was posted for cross examination of DW-1 and 2. The counsel for Plaintiff submitted that it was not possible to cross examine the DW-2 and 3.

9. I have carefully perused the applications and order sheet discloses that this court had given opportunities to plaintiff in order to cross-examine to DW-2 and 3 by allowing the applications filed by the plaintiff. In spite of that the plaintiff did not come forward to lead the cross-examination of the DW-2 and 3. Moreover, as stated by the defendants' counsel in their objection the DW-2 is no more.



O.S. No.474/2012

The plaintiff already filed the interlocutory application to recall the cross of DW-2 and 3 and the same was allowed and permitted to plaintiff to cross examine the DW-2 and 3. But the plaintiff utterly failed to follow the order of this court, it shows the negligence of the plaintiff. By keeping in the mind the present suit filed in 2012 , hence it ought to be dispose expeditiously. Accordingly, I answer above points in the Negative and proceed to pass following:

ORDER

I.A. No.15 and 16 under Order XVIII
Rule 17 of C.P.C. and Under Sec. 151 of
C.P.C. filed by the plaintiff are hereby
rejected with cost of Rs.1,000/-.

For Arguments on defendants' side.

Call on:27/02/2025

Sd/-
**Addl. Civil Judge & JMFC.,
Sira.**