

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

Present: **KUM. SHARMILA E.J.**, B.A. LL.B., LL.M.,

Addl. Civil Judge & JMFC., Sira.

Dated this the **31st** day of **January 2026**

O.S.274/2014

Plaintiff/s: Smt.Bharathi and others

(By Sri.S.M.M., Advocate)

-V/s-

Defendant/s: Sri.B.L.Krishnamurthachar
Since dead by Lrs.,

(By Sri.K.V.,Advocate)

PARTIES TO THE I.A. NOs.16 and 17

Applicant : Smt.Gayatri and others.. Lrs of defendant

-V/s-

Opponents : Smt.Bharathi and others ... Plaintiffs

ORDER ON I.A.No.16 UNDER ORDER XVIII RULE 17 OF C.P.C.
R/W UNDER SEC.151 OF C.P.C AND UNDER ORDER VIII RULE
1(A) R/W UNDER SEC.151 OF C.P.C,

The defendants have filed these applications under Order XVIII Rule 17 R/w Sec.151 of C.P.C. and under Order VIII Rule 1(A) R/w Sec.151 of C.P.C seeking to recall DW-1 for the purpose of adducing further evidence.

2. It is averred in the affidavit annexed to the applications that, the plaintiff has filed this suit against the defendants for the relief of cancellation of exchange deed. The document sought to be produced is recently traced out by the defendants and is relevant to their defense. The said document is just and relevant for effective adjudication of the lis. It is further averred that if the applications are allowed, no prejudice would be caused to the plaintiff. For the purpose of marking the said document, recall of DW-1 is necessary. On all these grounds, the defendants have sought for allowing the applications.

3. Per contra, the learned counsel for the plaintiff has filed objections to the said applications stating that the applications filed are false and frivolous and is without any proper basis. It is contended that the applications have been filed only with an intention to delay the proceedings and the matter is of the year 2014 and the applicant has come up with the applications in the year 2025 and now the case is set down for cross of DW-1 and no cogent reasons have been mentioned as to why the documents were not produced with the written statement. Hence, it is prayed that the applications be dismissed.

4. Heard the learned counsel for the plaintiff and the defendants and perused the records.

5. The point that arises for the consideration of this Court is as under:

1. Whether the defendants have made out just and sufficient grounds to allow the applications filed?

6. This Court answers the above point in the “**Affirmative**” for the following:

:REASONS:

7. **Point No.1:** The present applications have been filed at the stage of cross of DW-1. The defendants specifically contend that, due to inadvertence, certain document relevant to the issues in dispute was not produced during the chief examination of DW-1. They seek to recall DW-1 for the purpose of marking the said document.

8. The plaintiff has objected to the applications on the ground that they are belated, frivolous, and filed only to delay the proceedings. It is further argued that the defendants have failed to explain why the said document was not produced along with the written statement.

9. Having heard the learned counsel for both sides and perused the record, this Court observes that no serious prejudice has been demonstrated by the plaintiff in allowing the present applications. On the contrary, permitting the recall of DW-1 for marking documents that are material to the determination of the suit would further the ends of justice.

10. It is well settled that the provisions of Order XVIII Rule 17 CPC R/w Sec.151 of CPC confer a discretionary power upon the Court to recall a witness at any stage, if it is deemed necessary for effective adjudication. Further, procedural laws are the handmaid of justice and should not be used to defeat substantive rights on technical grounds. Under such circumstances, this Court is of the opinion that it is just, proper, and in the interest of justice to afford an opportunity to the defendants to prove their defense by marking and exhibiting the said document. Moreover, the plaintiff will not be prejudiced, as he will have sufficient opportunity to cross-examine DW-1. Accordingly, this Court is of the considered view that just and sufficient cause is made out by the defendants for recalling DW-1 to adduce further evidence. Hence, this Court answers the above point in the Affirmative and proceeds to pass the following:

ORDER

The applications filed by the defendants under Order XVIII Rule 17 R/w Sec.151 of C.P.C and under Order VIII Rule 1(A) R/w Sec.151 of C.P.C are hereby allowed, at the cost of Rs.200/-.

DW-1 is recalled for further examination as sought.

It is also to be noted that the suit is of the year 2014, and hence, no further adjournments shall be entertained on this ground.

For further chief-examination of DW-1.

(Dictation given to the Stenographer, transcribed and computerised by him, then corrected, print out taken, signed by me and pronounced in the open court on this the **31st** day of **January 2026**)

(SHARMILA E.J.)
Addl. Civil Judge & JMFC.,
Sira.