

:: ORDERS ON I.A.No.8 to 10 ::

The plaintiffs have filed these I.A.s under section 151 of C.P.C., under Order 18 Rule 17 R/w 151 of C.P.C. and under Order 7 Rule 14 of C.P.C. for reopen of the case, recall of PW-1 for further chief examination and to condone the delay in production of documents.

2. In the memo of facts and in the affidavits the plaintiff has stated that she has filed suit for partition and separate possession of joint family properties as she is holding joint right in the suit schedule properties after death of her husband. On 17-11-2025 his sister-in-law Smt. Sudha Naik met her in court complex and she informed that she came to her case in M.C.No.28/2025 pending on the file of Addl. Senior Civil Judge and JMFC Karwar. The said case was filed by her husband against her for divorce. Further her sister-in-law stated that her husband had given one document which is titled as cancellation of Will. The said document is important document executed by her husband relating to suit schedule properties. She informed this fact to her counsel. Further it is

necessary to furnish the document and also petition copy deposition of M.C.No.28/2025 filed by the defendant No.3. During the cross examination DW-3 has admitted certain facts, therefore it is necessary to produce the documents and recall the PW-1 for further chief examination.

3. On the other hand the defendant No.2 to 4 have opposed the application denying the averments of the affidavit sworn to an IAs and stated that the case is posted for arguments on merits and plaintiff has availed sufficient opportunities to lead evidence. The production of documents at this stage for reopen of the case is ill motivated. The so called cancellation of Will is created document to take away the effect of the evidence on record. The reasons assigned that the wife of defendant No.3 handed over the document recently is a hatched story which cannot be believed. Hence IAs are not maintainable and prayed to reject the IAs.

4. Heard on I.A No.8 to 10 from both side.

5. The following points arise for my consideration;

- 1. Whether the plaintiffs have made out grounds to allow the I.A. No. 8 to 10?**

2. What order?

6. My answer the above points is as under;

Point No.1:- **In the Affirmative.**

Point No.2:- **Is as per the final order for the following;**

REASONS

7. Point No.1:- The plaintiff has filed suit for partition and separate possession against the defendants, when the case is posted for arguments on merits. The plaintiff has filed these IAs stating that she has filed suit for partition and separate possession of joint family properties as she is holding joint right in the suit schedule properties after death of her husband. On 17-11-2025 his sister-in-law Smt. Sudha Naik met her in court complex and she informed that she came to her case in M.C.No.28/2025 pending on the file of Addl. Senior Civil Judge and JMFC Karwar. The said case was filed by her husband against her for divorce. Further her sister-in-law stated that her husband had given one document which is titled as cancellation of Will. The said document is important document executed by her husband relating to suit schedule properties. She informed this fact to her counsel. Further it is necessary to furnish the document and

also petition copy deposition of M.C.No.28/2025 filed by the defendant No.3. During the cross examination DW-3 has admitted certain facts, therefore it is necessary to produce the documents and recall the PW-1 for further chief examination.

8. In the objections the defendant No.2 to 4 have stated that already court has given sufficient time to the plaintiff to lead evidence and already case is posted for arguments on merits. The plaintiff has stated that her sister-in-law had given cancellation of Will to her stating that her husband had given it to her sister-in-law. Further her sister-in-law stated that her husband i.e. defendant No.3 has filed divorce petition against her. Therefore it is necessary to produce the said cancellation of Will and certified copy of compromise memo and copy of divorce petition in this suit. Though the defendant No.2 to 4 have stated that already court has given sufficient opportunity to the plaintiff to prove her case. In the affidavit sworn to an IA the plaintiff has stated that the documents are necessary to prove her case. Hence though there is delay in production of documents but the plaintiff has stated the reasons to recall PW-1 for further chief examination. If the plaintiff is permitted

to produce the documents, the defendant No.2 to 4 are having every right to cross examine on the said documents. If the I.A is allowed no hardship will cause to the plaintiff and will meet the ends of justice, **accordingly point No.1 is answered in Affirmative.**

9. Point No.2 :- In view of above discussions, I proceed to pass the following;

ORDER

I.A.No.8 to 10 filed by the plaintiff under section 151 of C.P.C. for reopen of the case, under Order 18 Rule 17 R/w 151 of CPC for recall of PW-1 for further chief examination and under Order 7 Rule 14 of C.P.C. to condone the delay in production of documents are hereby allowed on cost of Rs.100/- each.

Case is reopened for further chief of PW-1.

Call on: 13-03-2026.

**Pri. Senior Civil Judge & CJM,
Karwar.**

