

ORDER ON IA NO.V

Applicant/plaintiff has filed present IA for recalling of his evidence by setting aside order as non-tender for cross of PW-1. The said IA is supported with affidavit of plaintiff, wherein deposed that the plaintiff went some other place on the date of hearing, the counsel for plaintiff also absent due to some other reasons. Therefore, the Hon'ble court has passed order for non tender for cross-examination, hence, prays to recall the order.

2. The defendant No.3 has filed objections to said application by contending that the reasons assigned in the application are not satisfactory. Hence, prays to reject the application with cost.

3. Heard on application. The following points would arise for consideration:

Point No.1: Whether plaintiff is entitled relief as claimed in the IA V?

Point No.2: What order?

REASONS

4. **Point No.1:-** Plaintiff has filed suit for damage against defendants for publishing derogatory remarks in the newspaper. When the case is posted for cross-examination, the PW-1 did not tender himself for cross-examination, hence, same is ordered and case is posted for arguments. Thereafter, the plaintiff has filed present application.

5. Order -18 Rule- 17 of CPC states that the court may recall the witnesses at any time, whether examining such witnesses is necessary to dispose the case effectively. Merely filing application in belated stage would not defeat the rights of the parties. Imposing reasonable cost, while entertaining the IA would sufficient, therefore, I answered point No.1 in the affirmative.

6. POINT NO.2: For the reasons mentioned herein above, I pass the following:

ORDER

IA No.V is allowed on cost of Rs.200/-.

For cross of PW-1 kept by

Sd/-

Civil Judge, Ankola

