

ORDER ON IA NO.IV AND V

Applicant/defendants have filed present IAs for recalling the order dated: 03.09.2022 and permission to cross-examine the PW-1.

2. The said IAs. are supported with affidavit of defendant, wherein deposed that the plaintiffs have lead their evidence as PW-1. Thereafter, PW-1 could not possible to cross-examine due to heavy rain and ill health of defendant. The cross-examination of PW-1 is necessary to establish the contents of written statement. Therefore, prays for allow the application.

3. The plaintiffs counsel has filed objection to said IAs by contending that the grounds urged in the affidavit are not satisfactory. The defendants and their counsel are from Kumta, hence, no question of obstruction of heavy rain. Moreover, the counsel for defendants is attending the Ankola court twice in a week. Moreover, no material documents are supported in so far as ill health ground. Hence, sought for dismissal of IAs.

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

Point No.1: Whether defendants are entitled the relief as sought in the IA No. IV and V?

Point No.2: What order?

5. My answer to the above points are as under:

Point No.1: In the Affirmative

**Point No.2: As per the final order,
for the following:**

REASONS

6. Point No.1:- Plaintiffs have filed suit for declaration, cancellation of sale deed and recovery of possession. When the case is posted for defendant evidence, the present IAs are filed. On perusal of the order sheet, on 20.06.2022 case is posted for cross of PW-1, but PW-1 continuously absent till 03.09.2022. On that day, he was present, but defendant side sought time for cross-examination. Hence, the order was passed, which was sought for recall under present IAs. On perusal of the pleading, the detail enquiry is required for disposal of the case effectively. Hence, giving one more opportunity for cross-examination of PW-1 is appears to be required. Hence, in the interest of justice and equity, I answered point No.1 in the **affirmative**.

7. POINT NO.2: For the forgoing reasons, I pass the following:

ORDER

IA No.IV and V are allowed on
cost of Rs.200/-.

For cross of PW-1 kept by

Sd/-

Civil Judge, Ankola

