

**COMMON ORDER ON I.A.NO.V AND VI**

I	Provision under which the applications are filed	Application filed U/Order XVIII Rule 17 R/W Sec.151 of CPC.  Application filed U/Order XVII Rule 1-A of CPC.
II	Relief sought for	To reopen the case for further evidence of the defendant No. 1 to 5 and 7 to 9.  To permit the defendants to examined their witness as sought in the application.
III	The date on which the applications are filed.	20-11-2024
IV	Number of applications.	I.A.No.V and VI
V	The date on which the objection filed by opponent.	31.01.2026.
VI	The date on which the order passed on the application.	31.01.2026

The Applicants/ defendants have filed I.A.No.V and I.A. No. VI praying to reopen their side evidence for examination of their witness mentioned below:

Manjunath Bin Narayan Naik  
Aged about 58 year,  
R/o: Talagod Village,  
Bhatkal.

2. In the memorandum of facts annexed to the above applications, it is stated that, in this suit, this court has fixed the hearing of the case on 27-06-2025, considering that there is no further evidence of the defendants. But in this case, it is very necessary to examine the witness in favor of the defendants, otherwise, they will suffer a loss in this case. The plaintiffs will not suffer any loss by giving the said evidence. The DW1 could not furnish the name of the witness neither on the occasion of the furnishing the list of witness. Non filing of the list of witness during the relevant stage was not intentional or deliberate. The witness name in the accompanying application is a very relevant witness. Hence, prays to allow this application.

3. On the other hand the plaintiff has filed common objection to the above applications and contended that, the application seeking to reopen the case for further evidence on behalf of the defendants is most false and frivolous one and the same is not maintainable either under law or on facts and the same is liable to be rejected with heavy costs. The application is filed only to protract the proceedings for no justifiable reasons and even the evidence on behalf of the defendants is over long back and thereafter even preliminary issue was heard and decided. Even prior to this argument was also addressed on behalf of the plaintiff and even then the defendants have not chosen to file such

application and it is filed only with mischievous intention to prevent the court from passing Judgment and except this there are no other reasons, much less believable reasons. Therefore at any event there are no justifications to reopen the case for any reasons. So if at this stage, the case is again reopened, much hardship would be caused to the plaintiff and as such at any event the IA deserves to be rejected. Hence, prays to dismiss the applications.

4. Heard the counsels appearing for the parties. Perused the I.As, affidavits and objections.

5. Under the circumstances, following point arises for my consideration:-

1. Whether the applicant/ defendants have made out sufficient grounds to allow the I.A.No.V and VI?
2. What Order?

6. The point framed for consideration is answered in the **Affirmative**, for the following:-

### **REASONS**

7. **Point No.1:-** The Plaintiff has filed the suit for declaration against the defendants. The defendant No.5 has filed above applications at the stage of defendant side argument. Further after careful perusal of order sheet dated:27-06-2025, the counsel for the applicant/defendant No.1 to 5 and 7 to 9 submitted that, they have no further

evidence. Hence, case posted for arguments. Then this court heard the arguments of plaintiff side. After that, the defendants have changed their counsel and filed above applications. It is significant to note here that to final adjudication of the matter, the evidence of both the parties are necessary, then only this court can adjudicate the issues between the parties. Hence, sufficient opportunity has to be given to the both parties to prove their case. If same is denied it will cause multiplicity of proceedings. On the other hand if the applications are allowed no hardship will cause to the plaintiff, since the plaintiff has an opportunity for cross-examination of the witness sought to be examined. However, for causing delay it is necessary to impose heavy costs on the defendants. Therefore I am of the opinion that the purpose of allowing the said applications is to avoid multiplicity of proceedings. Hence, I answer point for consideration is answered in the **Affirmative** and I proceed to pass the following:

**ORDER**

I.A.No.V and VI are hereby allowed on costs of Rs.1,000/- (Rupees one thousand only).

The defendants are permitted to examine the witness sought in the I.A No.VI

Further both parties are directed to co-operate in speedy disposal of this case.

Consequently, case is reopened for further evidence of defendants side.

Call on 07-02-2026.

**Sd/-**

Addl. Civil Judge and  
JMFC, Bhatkal.