

**IN THE COURT OF THE SENIOR CIVIL JUDGE & PRL.
JMFC., KUMTA, AT; KUMTA, UTTARA KANNADA**

Dated this the 19th day of June, 2026

PRESENT

**Smt. B.S.Rayannawar, B.A., L.L.B.,
Senior Civil Judge
& Prl. JMFC, Kumta.**

O.S.No.19/2019

BETWEEN:

Chitra Devu Gouda

...Plaintiff.

V/s.

AND:

Nagi S/o. Maneshwar Gouda and others

...Defendants.

I.A.NO. XIX

Nagesh Ganesh Soori

...Defendant no.9/Applicant.

(Rep. By Sri. S.U.A. advocate)

V/s.

Chitra Devu Gouda

...Plaintiff/Opponent.

Rep. By Sri. M.N.S. advocate)

Provision	U/s. 151 of CPC
Relief sought for	permit the defendant no.9 to cross examine of PW.1.
Application dated	24-03-2026
Application No.	XIX
Objection filed on	17-04-2026
Order passed on	19-06-2026

ORDER ON I.A.NO.XIX

The present application filed by defendant No.9 Under Section 151 of CPC to permit the defendant no.9 to cross examine PW.1.

2. I.A supported with the affidavit of defendant no.9 stating that he is well conversant with the facts of the case. He could not able to secure the documents in time, hence it is not possible to cross examine PW1. It is very necessary to cross examine PW1. If the application is allowed no hardship caused to the plaintiff. On the other hand if the application is not allowed hardship caused to him, Hence prays to allow the application.

3. I.A opposed by counsel for plaintiff by filing written objections, contending that, the IA filed by the defendant No.9 is not maintainable either on facts or in law. The reasons stated in the accompanying affidavit are prima facie baseless, the present application is filed to harass the plaintiff. The counsel for defendant no.9 already cross examined PW.1 in length on 25.07.2022 and on 13.10.2022, hence the contention taken by defendant no.9 in his application are false. The defendant no.9 is a engineer graduate, he is doing realestate business at Gokarna, also doing agent work at Tahasildar office, and providing documents to others, hence the contention that taken by defendant no.9 that the documents are not available to cross examined PW.1 are all false. The purchasers who impled to the present have right to cross examine PW.1 and not defendant no.9, hence the application filed by the defendant no.9 is not deserves to be allowed. The present application is filed only to drag the matter. Hence, prayed to rejection of this application.

4. Heard the arguments addressed by the learned counsel for defendant no.9 and plaintiff.

5. Following points arise for my consideration:

1. Whether the defendant no.9 made out a ground to allow the application?

2. What order?

6. My findings on the above points are as follows:-

Point No.1 : In the Affirmative

Point No.2 : As per final order

For the following:

REASONS

7. **Point No.1** : Admittedly the Plaintiff filed this suit against the defendants for partition. Now the case is posted for cross of PW1. When the case was posted for cross of PW.1 the defendant no.9 not cross examined PW.1, and hence cross of PW.1 taken as nil hence now the defendant no.9 come up with this present application to recall PW.1 and permit him to cross examine PW.1 in further.

8. Learned counsel for defendant no.9 submits that, defendant no.9 could not able to secure the documents in time,

hence non cross examination of PW.1 by defendant no.9 is not intentional one, hence prays to allow the application.

9. Learned counsel for plaintiff submits that defendant no.9 already cross examined in length, the present application is filed only to drag the matter.Hence, prayed to rejection of this application.

10. Heard both respective counsels, admittedly the defendant no.9 not cross examined PW.1 when the case was posted for cross of PW.1 and now came up with this application to recall PW.1. It is well settled legal principal that courts while deciding such matter should not adopt hyper technical approach and liberal approach should the general rule, particularly in cases where other side can be compensated with the costs. The defendant already filed his written statement denying the case of the plaintiff, hence if he not permitted to cross examine PW.1 hardship caused to the defendant no.9 and he could not able to prove his defense. Hence to meet out the ends of justice and for striking balance between the interest of the parties, it is just and proper that, PW.1 has to be recalled

for further cross examination. Accordingly, this court answered point No.1 in the Affirmative.

11. **Point No.2:** In view of my findings on point No.1, I proceed to pass the following:

ORDER

I.A.No. XIX filed by the defendant
no.9 U/s. 151 of CPC is hereby allowed
on cost of Rs.1,000/-.

PW.1 recalled for the purpose of
further cross examination.

(Dictated to the stenographer, transcribed by her, then corrected and pronounced by me in the open Court on this the 19th day of June, 2026)

(Smt. B.S.Rayannawar)
Senior Civil Judge
& Prl. JMFC., Kumta.