

The plaintiff has filed memo stating that plaintiff had filed the I.A.No.XXXI praying correction of errors in the deposition of D.W.1 recorded on 20.10.2014 and I.A. was allowed on 17.06.2015 as mentioned in the order sheet page No.105. But the said order of the court has not been complied by correcting the deposition of D.W.1 till date and therefore prayed for early compliance of the same.

Other side has submitted that they do not have objection for correction of the deposition as sought by the plaintiffs. But same should be complied in compliance with the previous order passed by this court. Further there in another memo filed by the plaintiff praying this court to frame a additional issue and proposed additional issue is: *1. Whether the plaintiffs prove that the registered Will dated 13.09.1988 alleged to have been executed by Late Baiku Poojary is suspicious and vitiated by fraud and importunity committed on Baiku Poojary by the defendant?.*

The defendant has furnished no objection statement to the additional issue proposed by the plaintiff.

Another memo is being filed wherein the plaintiff has submitted that defendant has set up a Will claiming

exclusive right over plaint 'A' schedule items 1 to 11 properties on the basis of said Will and Hon'ble Court has framed 9 issues in the said suit and burden of proving the first 4 main issues is upon the defendant.

So therefore it may be directed for the defendant to begin the argument.

Other side has filed statement of objections wherein it is strongly objected that there is no such provision in Order XVIII Rule 1 of C.P.C. to direct the defendant to begin the argument and since the plaintiff has filed the suit it is bounded duty to state their case and turn of the defendant comes. So therefore the said memo may be rejected for convenience as sake his memo which is numbered as 1 to 3.

Now coming on the first memo wherein the defendant do not have any objection to carryout the correction in the deposition of D.W.1. This court has gone through the order sheet page No.105 wherein there is order passed by this court to correct the mistake in the deposition of D.W.1 and it is submitted that is is being rectified but on perusal of the deposition it is not being corrected so hence the same stands corrected in light of the order passed by this court which is reflected in page No.105.

Further another memo is being filed that: *Whether plaintiffs prove that registered Will dated 13.09.1988*

alleged to have been executed by late Baiku Poojary is suspicious, vitiated, fraud and importunity committed on Baiku Poojary by the defendant. Other side has submitted no objection. So therefore this court frame additional issues that, Whether plaintiffs prove that registered Will dated 13.09.1988 alleged to have been executed by late Baiku Poojary is suspicious, vitiated, fraud and importunity committed on Baiku Poojary by the defendant?.

Further the 3rd memo which is being filed by the plaintiff that the defendant shall be directed to proceed with the argument which is quite not proper because one who has filed the case has to begin with the argument. So the 3rd memo praying this court to direct the defendant to begin the argument stands rejected plaintiff will have to proceed with the argument.

Addl. Senior Civil Judge & A.C.J.M.
Udupi.

Call for arguments by 22.02.2025.