

ORDER ON I.A.NO.IX

I.A.No.IX under section 151 of C.P.C. filed by the defendants praying to recall P.W.1 for the purpose of conducting cross – examination.

2. In memorandum of facts it is submitted that the case is posted for further plaintiffs evidence. When the case has been posted for cross-examination there was wrong entry of the case in the office dairy of defendant counsel and was entered for April for the same date, hence the counsel for the defendant not attended the case and the court has taken the cross-examination of P.W.1 as Nil. Hence, it is prayed that the court may be pleased to reopen the case for the purpose of conducting the cross-examination of P.W.1 by recalling order dated 02-03-2020 in the ends of justice and equity or else the defendant would be put to great injustice, injury and loss. Hence, this application.

3. The learned counsel for plaintiffs has filed counter statement by denying the application averments as false. The application is hit by inordinate delay, laches and culpable negligence and prayed for dismissal of the application with cost.

4. Heard, perused the application and counter statement.

5. The plaintiffs have filed the suit against the defendants for the relief of partition and separate possession of the plaint schedule properties and to direct the defendants to pay their share of income from the plaint schedule property. When case was posted for further plaintiff evidence, this application has been filed by the defendants to recall the P.W.1 for the purpose of conducting cross-examination. Opportunity should be given to the defendants to cross-examine the P.W.1. Hence, this Court is of the view that the application needs to be allowed in the interest of justice and equity. Accordingly, I proceed to pass the following;

ORDER

I.A.No.IX under section 151 of C.P.C. filed by
the defendants is hereby allowed.

No order as to costs.

For cross-examination of P.W.1 finally.

Call on: 08-05-2021.

(Smt. Bhavani L.J.)

Prl. Sr. Civil Judge and CJM.,
Udupi.