

ORDERS ON IA NO. XI AND XII

The defendant has filed IA No.XI under sec.151 of CPC praying to reopen the stage and also files IA No.XII under order XVIII Rule 17 R/w Sec.151 of C.P.C to praying to recall the PW2 for cross examination.

2. In the accompanying memorandum of facts, the applicant has stated that, by mistake and oversight PW2 has not cross examined by defendant counsel, but he is under impression that counsel for the defendant No.14 has already cross examined the PW2. The cross examination of PW2 is necessary to prove the defence case. With these averments the applicant has sought for allowing the application.

3. Per contra, opponent has filed objection to the said application contending that, absolutely there are no justifiable reasons for the non cross examination of PW.2 and the defendants cannot be allowed to take a shelter on flimsy grounds which are beyond the reach of imagination. The question of recalling PW2 or reopening the case for the cross examination of PW2 does not arise at all. With these contentions the opponent has sought for reject the application.

4. Heard both sides and perused the materials on record.

5. Now, the following points arise for consideration of this Court are:

Point No.1: Whether the applicant has made out sufficient grounds to reopen the stage and to recall PW2?

Point No.2: What order ?

6. The findings of this Court on the above said points are as under:

Point No.1:In the Affirmative;

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

REASONS

7. **Point No.1 and 2**: This Court has already narrated the facts stated in the memorandum of facts annexed to the application and also objections filed by the opponent.

8. This court has gone through the entire records. This is the suit filed by the plaintiff against the defendants for seeking the relief of partition. In the interest of Justice and equity,

applications are allowed on imposing cost. Hence, this Court answer point No.1 in the affirmative.

9. Point No.2: For the aforesaid discussion on point No.1, this Court proceeds to pass the following:

ORDER

I.A. No. XI and XII are hereby allowed with cost of Rs.5000/-.

The stage is reopened for the purpose of cross examination of PW2.

For payment of Cost and cross examination of PW2.

Call on: 25.02.2025

Civil Judge & J.M.F.C.,

Bainduru.