

ORDER ON I.A.No.VIII to IX

The defendant No.1 has filed the I.A.No.VIII under Section 151 of CPC., and I.A.No.IX U/o.XVIII Rule 17 R/w.Sec.151 of CPC., to recall the PW2 to PW5 for cross examination.

2. In the accompanying affidavits to the applications, it is stated by the defendant No.1 that, after cross examination of PW1 defendant No.2 has filed application for rejection of the plaint. After contest said I.A. was dismissed and the case has been posted for defendant evidence. It is just and necessary to recall the PW2 to PW5 for cross examination. If the applications are allowed no injustice will be caused to the other side. If the applications are not allowed he will be put to hardship. Hence he prays to allow the applications.

3. To the said applications the plaintiffs have filed the objections and denied the contentions of the defendant No.1 and further contended that the plaintiff has filed the above said application without any proper reasons. With an intention to drag on the proceedings, the defendant No.1 has filed the said applications. Hence, they pray to dismiss the same.

4. Heard the arguments and perused the records.

5. The following points arise for my consideration:

1. Whether the defendant No.1 has made out proper grounds to allow the said I.A.No. VIII and IX?

2. What order?

6. My answers to the above points are as under:

Point No.1 : In the **AFFIRMATIVE**

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

R E A S O N S

7. Point No.1:- The present suit is filed by the plaintiffs against the defendants for the relief of Permanent and mandatory injunction with respect of suit schedule properties. When the case was posted for defendant evidence the defendant No.1

has filed the said applications to recall the PW2 to PW5 for cross examination. As per the records on 26.06.2018 PW1 to PW5 have examined before the Court and case was posted for cross examination of PW1 to PW5. On 10.10.2023 PW1 fully cross examined by defendant No.1 and matter was posted for cross examination of PW1 by defendant No.2. on 10.07.2024 PW1 fully cross examined by defendant No.2 and as per the request of the counsel for the plaintiff case was posted for further plaintiff evidence. On 06.07.2024 advocate for defendant No.2 has filed the I.A.No.7 for rejection of plaint. After contest the said application was dismissed on 09.02.2025 and case was posted for cross examination of PW1. On 08.04.2025 case has been posted for defendant evidence. On 10.09.2025 the defendant No.1 has filed the above said applications. On going through the records it discloses that the PW2 to PW5 have not cross examined by the defendants. It is the suit for Permanent Injunction, the defendant No.1 to 3 have appeared before the Court and defendant No.1 and 3 have filed their written statement, by denying the case of the plaintiffs. The defendant No.1 and 3 have setup their specific defence. Therefore I am of the opinion that, opportunity has to be given to the defendant No.1

and 3 to disprove the case of the plaintiffs. Otherwise it amounts to not giving opportunity to the defendant No.1 and 3 to contest the suit. It cause injustice to the defendant No.1 and 3, and also it amounts to multiplicity of the proceedings. Reasons assigned in the applications are satisfied. On the basis of above reasons and discussions, I answer **Point No.1** in the **AFFIRMATIVE**.

8. Point No.2:- For the aforesaid reason and discussions made above, I proceed to pass the following:-

ORDER

I.A.No.VIII and IX filed by the defendant No.1 under Section 151 of CPC., and U/o.XVIII 18 Rule 17 R/w.Sec.151 of CPC., for recalling the PW2 to PW5 for cross examination are hereby allowed.

PW2 to PW5 are recalled for cross examination.

For cross examination of PW2 to PW5 call on 03.03.2026.

(**SAYED MOHIUDDIN URF KHAWAJA PEERAN**)
CIVIL JUDGE & JMFC., H.B.HALLI.