

Order below Exh. 116 in RCS 56/2015
Sidraya Ganachary Vs Aba Bandgar & Ors

The application is recall the order of closure of evidence of the defendant 1 and permit to lead evidence.

2 Perused the application, say, and the record.

3 Heard both the sides.

4 The suit is of 2015. The suit is for a decree of perpetual injunction. The defendants have contested the claim. From the record, defendant 1 has delayed the proceedings. Defendant 1 has been saddled with costs and only upon saddling of the costs, defendant 1 proceeded with cross examination of the plaintiff's witnesses. The plaintiff closed his evicence on 21/01/2026 below Exh.111. The matter was adjourned to 04/02/2026 wherein adjournement was sought. To the adjourned day 25/03/2026 further adjournment was sought. The case was listed to 20/04/2026. Defendant 1 again sought time. This is probably to delay the suit and for the ensuing summer vacation. The same was rejected. The plaintiff filed short written notes of arguments and finally argued the matter. It is only on 23/04/2026 the present application came to be filed.

5 The application is premised on the ground that the evidence of defendant 1 is necessary vis-a-vis the fact that it is in respect of agricutural land.

6 The application is vehemently opposed on the ground that the defendant 1's vakalanama was withdrawn on 24/07/2024 below Exh.99, sought sufficient adjournment, delaying the matter, the reason assigned is misconceived. If to be allowed heavy costs to be imposed.

7 It is settled law that power to recall a witness has to be exercised judiciously. Admittedly, the written statement is on the record. Defendant 1 has filed the instant application immediately on the next date. Admittedly, defendant 1 is reversing the stage and delaying the matter, a fact cannot be lost sight that right to lead evidence is valuable right. The matter was not listed for judgment and therefore, to avoid any prejudice or further delay a final opportunity needs to be granted to defendant 1. The inconvenience cost may be remedied. Costs follows the event. Hence, the following

Order

The application is allowed subject to costs of Rs.500/- payable to the other side forthwith.

2 It is made clear that if the costs is not paid the matter shall be listed for judgment.

Jath
Dt. 18/05/2026

(Sanjay P. Bunde)
Jt C.J.J.D, Jath