

**IN THE COURT OF THE V ADDL. CITY CIVIL JUDGE,
AT BANGALORE CITY.
(CCH-13)**

DATED THIS THE 5th DAY OF MARCH, 2018

PRESENT

**Smt.Nagaveni, B.A.,LL.B.
V ADDL.CITY CIVIL & SESSIONSJUDGE, BANGALORE**

O.S.NO.6191/2011

**PLAINTIFF: Sri. A.L.Belur,
Son of Shri L.A.Belur,
Aged 35 years,
Residing at A-60/1222,
Azad Nagar, Veera Desai Road,
Andheri (West),
Mumbai- 40053.**

**And also having address at:
No.1400, 1st Floor, 5th Main,
2nd stage, Rajajinagar,
Bangalore -560 010.**

**(By K.R.Lakshmana Rao Advocate)
/VS/**

**DEFENDANT: Sri. K.S.Ranganath,
Son of Sri. K.V.Soorappa,
Aged about 60 years,
Residing at No.C-7,
36th Cross, Sanathana
Kalakshethra,
4th Block, Jayanagar,
Bangalore-560 011.**

(By Sri. R.Vijayakumar Advocate)

ORDERS ON IA NO.X

The defendant filed the above I.A.No.X under Order VIII Rule 1 of Code of Civil Procedure and prays to condone the delay in production of the documents as mentioned in the application in the interest of justice.

2. In the annexed affidavit, it is stated that the documents produced by the defendant, are very important and relevant documents in support of his defence taken and evidence affidavit filed by him, when he was about to mark the C.D., this Court observes that the said C.D. was not certified by any authenticated authority. he has sought time to lead his further evidence after getting authentication of the said CD in evidence under Section 65B of Indian Evidence Act and the delay in production of the documents is a bonafide and not intentional one. Hence, prayed for to allow the application.

3. The plaintiff counsel filed the objection to the said application stating that the application is not maintainable in the eye of law. The defendant has sought for a mandate before this Court to permit him to produce original C.D, wherein it is alleged that it contains the conversation between the plaintiff father and the defendant and also with one Srinivas. The said persons are not parties to the suit and they are not even examined as witnesses in the above case. The production of C.D. is not in compliance of the information technology and as such, the application is liable to be dismissed and the certificate issued by

the so called Forensic lab is not in compliance of the information and technology and evidence act. Hence, prayed to dismiss the application.

4. Heard.

5. The point that arise for my consideration is ;

Whether the application filed by the defendant u/O VII R.1 Code of Civil Procedure deserves to be allowed?

6. My finding on the above point is in the Affirmative for the following ;

REASONS

7. The plaintiff has filed this suit for Specific performance against the defendant in respect of the suit schedule property. When the case was posted for further evidence of D.W.1. AT that tie the defendant counsel filed the above application along with the documents. The defendant has produced the CD contending conversation between the plaintiff's father A.L.Belur, the defendant and Srinivas. The certificate issued by the Forensic lab as required under Section 65B of Indian Evidence Act in relation to Audio is authenticated written form of the conversation contained in the C.D. According to the defendant, the said documents are very much necessary to prove his case. On the other hand, it is the specific contention of the plaintiff that the said parties are not parties in this case. In my view, if the application is allowed on cost, it will be met with justice. Further, plaintiff has got every right to cross-examine the D.W.1

and also verify the documents produced by the defendant. Mere filing of the documents, it cannot be said that the defendant has to prove the case. Hence, it has to be permitted the defendant to produce the document on subject to conditions. Accordingly, the above point is answered in the Affirmative and I proceed to pass the following;

ORDER

IA No.X filed under Order VIII Rule 1 Code of Civil Procedure by the defendant is hereby allowed on cost of Rs.250/-.

Defendant is permitted to produce the documents as mentioned in the application subject to condition. No costs.

For further evidence of D.W1 by 15.3.2018.

(Dictated to the Judgment Writer, transcribed by her, corrected and then pronounced by me in open court this the 5th day of March, 2018).

**(NAGAVENI)
V ADDL.CITY CIVIL JUDGE
BANGALORE**

