

IN THE COURT OF PRINCIPAL DISTRICT &
SESSIONS JUDGE, BELAGAVI

Dated this the 29th day of April, 2025

PRESENT

Sri T. N. Inavally, B.A.L., LL.B.
Principal District & Sessions Judge,
Belagavi

Com. OS No.3/2023

Plaintiff: M/s Valchand K. Shah
Registered Partnership Firm,
H.No.689, "Sanjay Nivas"
Ashok Nagar, Nipani,
Represented by its Managing Partner,
Shri. Jayavant Valchand Shah,
Age: 50 years, Occupation: Contractor,
R/o: H. No.689, Sanjay Nivas,
Ashok Nagar, Nipani.

(Represented by Sri. S.R. Patil, Advocate)

Vs.

Defendants: 1. The Government of Karnataka,
Vidhana Soudha, Bangalore-1,
Represented by the Deputy Commissioner,
Belgaum.

2. The Superintendent Engineer,
Panchayat Raj Engineering Division,
Belagaum Circle, Belgaum.

3. The Executive Engineer,
Panchayat Raj Engineering Division,
Chikodi, District: Belgaum
4. The Assistant Executive Engineer,
Panchayat Raj Engineering Sub-Division,
Chikodi, District: Belgaum

***(Defendant No.1 represented by the learned DGP
Defendants No.2 to 4 represented by Sri. R.M. Mirje,
Advocate)***

i.	Provision under which the application is filed	U/O VIII R-1A(3) R/w S-151 of CPC
ii.	Relief sought for	To produce documents
iii.	The date on which the application is filed	20.02.2025
iv.	Number of the application	IA No.23
v.	The date on which the objection is filed by different opponent/ plaintiff	27.02.2025
vi.	The date on which the order was passed on the said application	29.04.2025

ORDER ON IA No.XXIII

This application is filed by the defendants No.2 to 4 under Order VIII Rule 1A(3) read with Section 151 of Civil Procedure Code ('CPC' for short) praying for an order to permit them to produce 72 documents and one estimate in this case to prove their case in the interest of justice.

2. Sri. Barakatali S/o Davalsab Naikwadi, the Assistant Executive Engineer of the defendant No.4 department has filed

his affidavit along with the application submitting that at the time of filing the written statement, the defendants did not produce some important documents to prove their case and same came to his knowledge when he took charge from the earlier defendant No.3 and when he approached this Court for cross examination. Hence, he came to know that some of the important documents are not produced. He has collected those documents from the Division Office, Belagavi. Some of the xerox copies of the earlier documents are not marked as exhibits. Hence, he is producing the entire office copies of 72 documents and one estimate. The delay in producing the documents is neither deliberate nor intentional and the same is due to rush of work. If the application is allowed, no harm or loss will be caused to the plaintiff. Hence, the defendants No.2 to 4 have prayed for allowing the application.

3. The copy of the application is furnished to the learned counsel for the plaintiff and he has filed objections to the application in detail submitting that the contents of the

application are false, frivolous, baseless and concocted. The defendant has no locus standi to file the application. The earlier application was rejected by this Court and hence, this application is hit by the principle of res judicata. This Court is not having jurisdiction to entertain and decide such type of application, which is hopelessly barred by the principle of res judicata. The documents produced are already marked as exhibits. Hence, the documents now produced are previously submitted incomplete estimate and same is marked at Ex.D.30 and the plaintiff submitted complete estimate after receiving the document through RTI and the same is marked at Ex.P.163. Therefore, the learned counsel for the plaintiff has prayed for dismissal of the application with costs.

4. Heard the arguments of the learned counsel for the for the defendants No.2 to 4 and also the learned counsel for the plaintiff on the application. Perused the relevant materials on record. Now the points that arise for my consideration are:

1. *Whether the defendants No.2 to 4 have made out sufficient grounds to permit them to produce the documents as sought for in the application?*
2. *What order?*

5. After hearing the arguments of the learned counsel for both the parties and on considering the relevant materials on record, my findings on the above points are as hereunder:

Point No.1	:	In the negative
Point No.2	:	As per final order
		For the following:

REASONS

6. **POINT NO.1:** The defendants No.2 to 4 have filed the present application for permit them to produce documents as sought in the application. The contention of the defendants No.2 to 4 is that the documents sought to be produced are important documents to prove their case and they are not produced them at the earlier stage. Hence, now they came know that those documents are not produced and hence, they have come up with this application.

7. However, as submitted by the learned counsel for the plaintiff, there is absolutely no mention in the affidavit along with application to show as to how those documents now produced by the defendants No.2 to 4 are relevant to the case on hand. Moreover, as mentioned in the affidavit filed along with the application, those documents are collected from the Division Office, Belagavi of the defendant No.3. This would show that the defendants are having possession of the original of the documents now produced by them.

8. Further, as mentioned in the list of documents, this suit is originally filed in the year 2012 and now after 13 years of filing of the suit, the defendants No.2 to 4 have come up with the present application without any whisper how the documents now produced by them are relevant to the case on hand. Moreover, the defendants No.2 to 4 have examined one witness as DW.2 and they have already produced documents at Exs.D.31 to D.72.

9. Earlier the defendants No.2 to 4 have examined one witness as DW.1 and he is partly examined and thereafter, his chief examination discarded. Some documents are got marked in the evidence of DW.1. The DW.2 is also partly examined and thereafter, on the submission of the learned counsel for the defendants No.2 to 4, the further chief examination of DW.2 is taken as nil and thereafter DW.2 is partly cross examined. When the case is posted for further cross examination of DW.2, the defendants No.2 to 4 have come up with the present application.

10. Moreover, when there is no whisper in the affidavit filed along with the application as to how the documents now produced are relevant, the question of permitting the defendants No.2 to 4 to produce such documents does not stand for consideration. The documents now produced by the defendants No.2 to 4 are office copies of the concerned documents. There is no material forthcoming from the defendants No.2 to 4 to show what happened to the original

documents, if at all those documents are in the office of the defendant No.3 department.

11. Further, earlier application-IA No.22 filed by the defendants No.2 to 4 for an order to permit them to produce the documents on the same provision is dismissed by this Court as per order dated 21.11.22024. The said order stands not challenged by the defendants. Even though it is contended by the learned counsel for the plaintiff that this application is hit by principle of res judicata, he has not substantiated the said point to show that the dismissal of similar application would prevent the parties from filing such application once again.

12. However, when the earlier application filed by the defendants No.2 to 4 producing documents is rejected, now the similar application filed by the defendants No.2 to 4 producing true copies of the documents does not stand for consideration on the facts of the case and also in law.

13. In the objections, the learned counsel for the plaintiff has clearly stated that some of the documents are already got marked by the defendants. The said contention stands not controverted by the defendants No.2 to 4. Therefore, the documents now produced by the defendants are not at all relevant or important to prove the defence put forth by the defendants No.2 to 4 in the case. Hence, the defendants No.2 to 4 have failed to make out any sufficient ground, much less any ground to permit them to produce the documents as sought for in the application. Consequently, the point No.1 is answered in the negative.

14. **POINT NO.2:** From the discussion made herein above, it would be clear that this application is liable to be dismissed. In the result, I proceed to pass the following:

ORDER

The application-IA No.23 filed by the defendants No.2 to 4 under Order VIII Rule 1A(3) read with Section 151 of Code of Civil Procedure is hereby dismissed.

In the circumstances, there shall be no order as to costs.

*(Dictated to the Stenographer, transcribed by her, corrected and then pronounced by me in Open Court on this **the 29th day of April, 2025**)*

(T. N. Inavally)
Principal District & Sessions Judge,
Belagavi