

KABG040018222012



**ORDERS ON IA NO. 13 FILED UNDER
ORDER VIII RULE 3 R/w SECTION 151
OF CODE OF CIVIL PROCEDURE**

Counsel for defendants has filed an application under Order VIII Rule 3 R/w Section 151 of Code Civil Procedure seeking for production of additional documents in support of defendants' case.

2. In the affidavit annexed to the application, the defendant No.1 has stated that the plaintiff has filed this suit for the relief of partition and separate possession and the document sought to be produced is the original sale deed dated 29/1/2009 in respect of R. S. No. 140/10B and R. S. No. 140/10B of Shindolli village which is purchased by him and the said properties are his self acquired properties. The said document was misplaced and as such he could not produce the same and now it has been found, he intends to produce the same

which could be marked in his evidence. No loss or prejudice will be caused to the plaintiff if the accompanying application is allowed on the contrary, he will be put to irreparable loss and injury if the application is rejected. Hence prayed to allow the application.

3. Counsel for plaintiff has filed objections to the said application contending that the contents of the averments made out in the application are false, baseless and the said document is a created one. The said documents produced with the application are created by the defendants to suit their own claim and are not relevant to the suit property. The defendants with an intention to drag the matter have filed the said application. The document is produced at belated stage. The application is filed against the procedural aspect and not maintainable in the eye of law. Hence prayed to dismiss the application with costs.

4. Heard both the counsel appearing for plaintiff and defendants.

5. The following points would arise for my consideration:

1. Whether the defendants have made out grounds to allow this application?

2. What order?

6. My answer to above 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:** Counsel for defendants argued that the sale deed is very much necessary to substantiate the case of the defendants. Counsel for plaintiff argued that the defendants with an intention to drag the proceedings has filed this application. Apart from that there are no merits in the application and prayed to reject the same with costs.

8. Marking of documents is only a chief ministerial act. Genuineness of documents will be taken up for

consideration at the time of appreciation of evidence. Further, the counsel for plaintiff has every right to cross examine defendants regarding the said document. As such for the proper and effective adjudication of the matter and in order to avoid multiplicity of proceedings, I answered point No. 1 in the affirmative.

9. Point No .2: For the above discussed reasons to point No.1, I proceed to pass the following:

ORDER

The application filed under Order VIII Rule 3 R/w Section 151 of Code of Civil Procedure is hereby allowed.

For further chief of Dw-1

Call on **20/09/2021**

Sd/-

**II Addl. Civil Judge & JMFC
Belagavi.**