

ORDER ON IA-XIII

The defendant No.5 has filed the present application U/O XVIII R 17 R/W Sec 151 of CPC and there by prayed to set aside the order of defendants taken as closed and permit them to lead further evidence on his behalf.

2. In the affidavit filed along with the present application the defendant No.5 has deposed to the facts that the plaintiff has filed the present suit for the relief of injunction simpliciter. Further the defendant No.5 has produced the original Sammati Patra executed by the plaintiff and the defendant No.1 and the father of the defendant No.2 to 4 in his favour . the plaintiff is trying to delete their names in the records of right of the suit property. By that the defendant No.5 has produced the above said Sammati Patra before the office of the RI Kakati, accordingly the RI passed an order and again the name of the defendant No.5 is entered. If this IA is allowed no prejudice will cause to the other side, but on the other hand it may cause irreparable losses and hardship to him. On these grounds the defendant No.5 has prayed to allow the present application.

3. The counsel for the plaintiff has orally objected that the suit is at the stage of arguments and despite of giving sufficient opportunity the defendant No.5 has come

up with the present application which is not maintainable and hence he prayed to reject the application.

4. Heard the learned counsel for the plaintiff and the defendant No.5. Perused the material placed on record carefully.

5. The defendant No.5 has filed the present application to set aside order of further defendant No.5 evidence taken as nil and for the permission to lead further evidence. Though the defendant No.5 in his affidavit has not made proper and justifiable reasons for not leading evidence at the earlier instances. But in the interest of justice and by keeping the principle that every opportunity should be given to the parties to prove their case the application filed by the plaintiff deserves to be allowed. Accordingly this court proceed to pass the following:

ORDER

The IA No.XIII filed by the defendant No.5
is hereby allowed on cost of Rs.300/-.

Sd/-

(Smt. Vinutha B.S.)
I Addl. Civil Judge & JMFC
Belagavi.

ORDER ON IA-XIV

The defendant No.5 has filed the present application u/o XI R 6 of CPC Sec 151 of CPC and there by prayed for the issuance of summons to the Tahshildar Belagavi to produce original Sammati Patra dated 10/10/2000.

2. In the affidavit filed along with the present application the defendant No.5 has deposed to the facts that the plaintiff has filed the present suit for the relief of injunction simpliciter. Further the defendant No.5 has produced the original Sammati Patra executed by the plaintiff and the defendant No.1 and the father of the defendant No.2 to 4 in his favour . the plaintiff is trying to delete their names in the records of right of the suit property. By that the defendant No.5 has produced the above said Sammati Patra before the office of the RI Kakati, accordingly the RI passed an order and again the name of the defendant No.5 is entered. Hence prayed for the issuance of notice to produce witness summons to the Tahshildar. If this IA is allowed no prejudice will cause to the other side, but on the other hand it may cause irreparable losses and hardship to him. On these grounds the defendant No.5 has prayed to allow the present application.

3. The counsel for the plaintiff has orally objected that the suit is at the stage of arguments and now the

defendant No.5 has come up with the present application to drag the matter, which is not maintainable and hence he prayed to reject the application.

4. Heard the learned counsel for the plaintiff and the defendant No.5. perused the material placed on record carefully.

5. The defendant No.5 has filed the present application for the issuance of summons to the Tahshildar Belagavi to produce original Sammati Patra dated 10/10/2000. As per the defendant No.5 the said document is registered one. If so it will be recognized as public document and it is very much available in the concerned office and the defendant No.5 can obtain the certified copy of the same easily. Despite of it the plaintiff has come with the present application without making any efforts. Hence the application filed by the defendant No.5 deserves to be dismissed. Accordingly this court proceed to pass the following:

ORDER

The IA No.14 filed by the defendant No.5 is hereby dismissed with cost of Rs.100/-.

For defendant evidence call on
24/01/2020.

Sd/-

(Smt. Vinutha B.S.)

I Addl. Civil Judge & JMFC Belagavi.