

KABG040023582013



IN THE COURT OF THE III ADDL. CIVIL JUDGE & JMFC,
AT: BELAGAVI

PRESENT : Sri. Nagaraj Barki, *B.A., LL.B.*
III Addl Civil Judge & JMFC., Belagavi.

O.S. NO.1061/2013

Dated on this the 17th day of April-2023

Plaintiffs : Shri. Jaypal S/o Rama
Piragannavar @ Piragi and others

- Versus -

Defendants : Shri. Sidrai S/o Bharna
Piragannavar and others.

PARTIES TO IA'S NO.XVII

Applicant/defendants: Shri. Sidrai S/o Bharna
Piragannavar and others.

Versus -

Opponents/

plaintiffs : Shri. Jaypal S/o Rama
Piragannavar @ Piragi and others

ORDER ON IA-XVII

1) IA.No.XVII is filed by defendants No.1 to 3 for seeking permission to produce the documents with the separate list before the Court.

2) The application is accompanied by a memo of facts, wherein it is stated that the present suit is filed for the relief of injunction and declaration. The defendant has sought to produce the documents. The plaintiff has been examined as PW.1. Now the case is posted for evidence. The defendants have produced documents as per the list which is more important for this case and is within the knowledge of parties and referred in the cross of PW.1. Hence there is no delay in producing the documents. Hence, this application.

3) The plaintiff has filed objections to the application and he has contended that IA No.17 is not maintainable because IA No.17 is not supported by the party's affidavit. Further, in the memo of facts, it is not mentioned that the documents which are produced along with IA No.17 have been secured after the completion of evidence of PW.1. The evidence of PW.1 has been completed on 19.10.2022. From the year 2013 to 03.01.2023 the defendants have not at all produced any documents in support of their alleged defense in respect

of both suits. For the first time, nearly after the lapse of 8 to 9 years, the defendants are producing the document along with IA No.17. On perusal of the documents, it is clear that the defendants are having custody of those documents and they would have produced the said documents before the examination of PW.1. Moreover, if said documents produced prior to examination of the PW.1, the PW.1 would have been given evidence in respect of documents which are now produced by the defendants, along with IA No.17. Hence the defendants have not made any prima facie case for the production of documents at this belated stage and the reasons assigned in the memo of facts filed in support of IA No.17 are not sufficient to explain the delay in producing documents. Hence, prays to dismiss the application.

4) On perusal of the pleadings, the following points arise for my consideration are;

1) Whether the defendants have made out grounds for the production of the document as sought for?

2) What order?

5) My findings on the above points for consideration are as under: -

Point No.1	:	In the Affirmative
Point No.2	:	As per the final order for the following: -

REASONS

6) **POINT NO.1:** The present suit filed by the plaintiff against the defendants for the relief of permanent injunction over the suit property. The defendants have sought the production of the document on the grounds that, the plaintiff has been examined as PW.1 fully. Now the case is posted for the defendant's evidence. The defendants have produced documents as per the list which more important for this case which is within the knowledge of parties and referred in the cross of PW.1. Per contra the plaintiff has contended that the evidence of PW.1 has been completed on 19.10.2022. From the year

2013 to 3.01.2023 the defendant has not at all produced any documents in support of their case.

7) The defendants have sought the production of documents. It is contended by the defendants that, the said documents are material documents and necessary to produce for resolving issues in controversy. In view reasons assigned by the defendants, the said document is the material document to help resolve the issue in the controversy. Considering all these reasons, the defendants have made out grounds to allow the application. But in my opinion, the production has to be allowed subject to admissibility and proof of document so produced. In my opinion, it deserves to be allowed. Hence considering all these aspects I answer point No.1 in the **Affirmative**.

8) **POINT NO.2:** For the aforesaid reasons, discussions made above, considering the material on record, I proceed to pass the following: -

ORDER

I.A.No.XVII filed by the defendants
U/O 8 Rule of CPC is hereby allowed
with no costs.

The production of documents is
allowed subject to admissibility and
proof of the document so produced.

*(Dictated to the stenographer, transcribed and typed
by her, the same is corrected, signed, and then
pronounced by me in the open court on this the 17th day of
April 2023).*

(Nagaraj Barki)
III Addl. Civil Judge & JMFC,
Belagavi