

**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE AND
J.M.F.C., CHIKODI.**

Present: Ashok R H
I Addl. Civil Judge & J.M.F.C.,
Chikodi.

Dated this 17th day of July, 2023

O.S.No.44/2005

Plaintiffs: Ravasab Adappa Mane,
R/o: Sadalaga, Tal: Chikodi,
and others.
//Vs//

Defendant: Balasaheb Makabul Mujawar,
R/o: Sadalaga, Tal: Chikodi,
Deceased by His Lrs

PARTIES TO I.A.No.23 and 24**Applicant/Ori.Plaintiff No.2:**

Balasaheb Makabul Mujawar,
Deceased by His Lrs
//Vs//

Opponents/Ori.Defendant:

Ravasab Adappa Mane and others

ORDERS ON IA No.23 & 24

The LR's of the defendant have filed these applications under section 151 of CPC, U/O.18 Rule 17 R/W Sec.151 of Code of civil Procedure, 1908 and under Section 8 Rule 1(3) R/w section 151 of CPC seeking permission to reopen the

case for further evidence of the defendants and permit him to lead additional examination-in-chief and also to produce the documents.

2. In the affidavits, the defendant no.1C has stated that the defendants are producing some of the documents and it is just and necessary to prove their case. It is just and necessary to permit the defendants to lead further evidence. It is stated that if the said applications are not allowed, he will be put to hardship. Hence, he has filed the present applications and has prayed to allow the same.

3. The learned counsel for the plaintiffs has filed common objections by denying all the contentions of the applications. It is contended that the documents are not required to prove the case of the defendants and no hand sketch map showing the true state of affairs and no documents are produced to prove or show the exact measurement of TMC.No.2105 of Sadalaga. The defendant has specifically contended that his uncle has purchased plot no.66, old No.1674 and new number on 23.02.1955 without producing the sale deed. The photographs are not title deeds nor the building permission and resolution. The alleged saw mill is not in existence of TMC.No.2105 of Sadalaga and it is shifted to some other place. The defendants have not stated the delay in production of the documents. Hence, it is prayed to reject the applications.

4. The points that arise for the consideration of this court are as under:

P O I N T S

1. Whether the applicant has made out grounds to allow the application?
2. What order?

5. The answers of this court to the above Points are as follows:

Point No.1 : In the Affirmative

Point No.2 : As per final order
for the following;

R E A S O N S

6. **Point No.1:-** The plaintiffs have filed the present suit for the Declaration that they are the owners in possession of the suit properties bearing TPC.No.2110 and 2103 of Sadalaga and for consequential relief of permanent injunction. Now the stage is for cross examination of DW.1. At this stage, the defendant no.1C has sought to produce the documents and lead further examination-in-chief of DW.1 in order to get mark the documents contending that the same are important to prove their case. It is an established principle of law that the parties must be given fullest opportunity to produce their best evidence. It is a settled law that mere marking of a document is not its proof. Though, there is delay in filing the present applications, the same

could be compensated by imposing costs. Delay cannot be a sole ground to reject the applications. In view of the above observations, the applications filed by the LR's of the defendant deserve to be allowed with costs. Hence this court has answered Point No.1 in the **Affirmative**.

7. **Point No.2:-** In view of answer to Point No.1, this Court proceeds to pass the following;

ORDER

IA.No.23 and 24 filed by the defendant no.1C U/O.18 Rule 17 R/W Sec.151 of Code of civil Procedure and under Order 8 Rule 1 (3) R/w Sec 151 of CPC are hereby allowed on costs of Rs.100/- each and the defendants are directed to produce the documents, subject to admissibility and relevancy of the documents.

(Dictated to the Stenographer, typed by her, corrected and then pronounced by me in the Open Court on this 17th day of July 2023)

Sd/-
(Ashok R.H)
I Addl Civil Judge & JMFC.,
Chikodi.