



IN THE COURT OF THE II ADDITIONAL SENIOR CIVIL JUDGE, GOKAK

Present: Sri. K.M. SHANKAR, B.A.L., LL.B.
I Addl. Senior Civil Judge, Gokak
C/C II Addl. Senior Civil Judge, Gokak

Dated, this the 03rd day of November, 2023

OS.No.26/2018

- Plaintiffs:
1. Gouravva W/o. Yallappa Sanadi @ Lakkanagol,
Age: 50 years, Occ: Household work,
R/o: Godachinamalki village, Gokak taluk,
Belagavi district.
 2. Siddappa S/o. Yallappa Sanadi @ Lakkanagol,
Age: 36 years, Occ: Agriculture,
R/o: Godachinamalki village, Gokak taluk,
Belagavi district.
 3. Basavaraj S/o. Yallappa Sanadi @ Lakkanagol,
Age: 34 years, Occ: Agriculture,
R/o: Godachinamalki village, Gokak taluk,
Belagavi district.

(By Sri.CAT., Advocate)

V/s

- Defendants:
1. Yallappa S/o. Siddappa Sanadi @ Lakkanagol
Since deceased by his legal heirs as
plaintiffs 1 to 3.
 2. Bangarevva W/o. Bhiashi Sanadi
@ Lakkanagol, Age: 48 years, Occ: Agriculture,
R/o: Godachinamalki village, Gokak taluk,
Belagavi district.
 3. Ashok S/o. Arjun Dandin,
Age: 38 years, Occ: Agriculture,
R/o: Godachinamalki village, Gokak taluk,
Belagavi district.

4. Basavaraj S/o. Shivamurteppa Gudaganatti,
Age: 50 years, Occ: Agriculture,
R/o: Godachinamalki village, Gokak taluk,
Belagavi district.
5. Tengevva W/o. Shetteppa Kallatti,
Age: 65 years, Occ: Agriculture,
R/o: Chilabanvi village, Hukkeri taluk.
6. Basavva W/o. Dhulappa Adimani,
Age: 70 years, Occ: Household,
R/o: Dasanatti village, Gokak taluk.
7. Gangawwa W/o. Yallappa Patil,
Age: 70 years, Occ: Household,
R/o: Khanapur village, Belagavi taluk.

(D-1, 5 & 6 R/By Sri.MBH., Adv.)

(D2 & 7 R/By Sri.DBA., Adv.)

(D-3 R/By Sri. SKH., Adv.,)

(D-4 exparte)

I.A. No.17 to 19

Applicants : Gouravva and others
V/s

Opponents : Yallappa and others

ORDERS ON IA-17 to 19 DATED 04.02.2023 FILED UNDER ORDER
18 RULE 17, UNDER ORDER 7 RULE 14 (3) R/W SECTION 151 OF
CPC AND 151 OF CPC

Plaintiffs have made the instant applications for reopening of the case, production of documents and recalling of the PW1 for further examination on the grounds that they have filed the

suit for the relief of partition against defendants in respect of the suit properties. The defendants 1, 5 and 6 are appeared before the court when the case was posted for judgment and filed their written statement. Wherein, they have taken up a contention that the plaintiffs are not the members of the joint family of the 1st defendant and the 1st plaintiff is not the wife and plaintiffs 2 and 3 are not the sons of the 1st defendant. Hence, the court pleased to frame additional issues regarding relationship between plaintiffs and the 1st defendant and posted the case for further evidence of plaintiffs but they have not led evidence as some of the documents were misplaced and are not traced and meantime there was a lockdown due to spreading of corona virus and courts were not functioning and the court pleased to take further evidence of plaintiffs as nil and the case was posted for evidence of defendants. To prove the relationship between the 1st defendant and plaintiffs, their evidence is very much necessary. If the applications are allowed, no loss or hardship would be caused to the other side. If they are not allowed, the plaintiffs will be put to heavy and irreparable loss.

2. In the objections dated 31.05.2023, these applications are resisted by the defendants 1, 5 and 6 contending that they

are groundless and averments made therein are false. The plaintiffs have filed the false applications to drag on the matter and harass these defendants intentionally. They have disputed the genuineness of documents produced by the plaintiffs as they are electronic records. Unless the conditions mentioned in the Section 65-B of the Indian Evidence Act, are complied the same is inadmissible in evidence. No such compliance is made. Hence, the applications are not maintainable. The Hon'ble Supreme Court of India in the judgment of the case of Arjun Panditrao Hotekar Vs. Kailash Kishanrao Goraneyal and others, reported in SCC 1 2020 held that unless the certificate as required under Section 65-B of the Indian Evidence Act, is produced such electronic evidence is inadmissible. The court has given sufficient opportunity to plaintiffs to produce documents and lead evidence on the same but have not done so in order to drag on the matter. Accordingly, it is prayed for dismissal of the applications with cost.

3. I have heard the arguments of the learned counsel appearing for the defendants 1, 5 and 6 and perused the material on record.

4. Points that arise for consideration of the court are;

1. Whether plaintiffs have made out grounds to allow the present applications?

2. What Order?

5. Findings of the court on the above points are as under:

Point No.1: in the affirmative and

Point No.2: as per final order for the following:

R E A S O N S

6. Point No.1; as rightly contended by the defendants 1, 5 and 6, the documents sought to be produced are electronic documents and are not supported by the certificates as required Under Section 65-B of the Indian Evidence Act, to receive the same into evidence as a secondary evidence. However, defendants have not disputed the relevancy of the documents in the case. Therefore, subject to production of certificates of documents under the said provision, plaintiffs can be permitted to produce the same, which may help them to substantiate their case and also assist the court to decide the suit at hand. Moreover, no hardship or injury would be caused to defendants if

the applications are allowed by imposing cost and accordingly the point No.1 is answered in the affirmative.

7. Point No.2; in view of the findings arrived on the point No.1, I proceed to pass the following:

O R D E R

The IA-17 to 19 filed Under Order 18 Rule 17 R/W Section 151 of CPC, Under Order 7 Rule 14(3) R/W/ Section 151 of CPC and Under Section 151 of CPC, are hereby allowed on cost of Rs.200/- subject to production of certificates of documents as contemplated Under Section 65-B of the Indian Evidence Act.

(Dictated to the stenographer on computer, typed by him, revised, corrected and then pronounced by me in the open Court on this the 03rd day of November, 2023)

Sd/-
(K.M.SHANKAR)
I Addl. Senior Civil Judge, Gokak
C/C II Addl. Senior Civil Judge, Gokak