



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

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

Dated, this the 13th day of March, 2023

O.S.No.242/2021

Plaintiff: Appayya S/o. Shivalingappa Ganachari,
Age: 50 years, Occ: Agriculture,
R/o: Madawal village, Gokak taluk,
Belagavi district.

(By Sri.MKM., Advocate)

V/s

Defendants: 1. Laxmibai W/o. Bhimappa Ganachari,
Age: 70 years, Occ: Household,
R/o: Madawal village, Gokak taluk,
Belagavi district.

2. Ramesh S/o. Bhimappa Ganachari,
Age: 57 years, Occ: Agriculture,
R/o: Madawal village, Gokak taluk,
Belagavi district.

3. Mahantesh S/o. Bhimappa Ganachari,
Age: 42 years, Occ: Agriculture,
R/o: Madawal village, Gokak taluk,
Belagavi district.

4. Shashikala D/o. Bhimappa Ganachari,
Age: 38 years, Occ: Household,
R/o: Madawal village, Gokak taluk,
Belagavi district.

5. Asha @ Akkawwa Suresh Ganachari,
Age: 47 years, Occ: Household,
R/o: Madawal village, Gokak taluk,
Belagavi district.



6. Nagaraj S/o. Suresh Ganachari,
Age: 22 years, Occ: Agriculture,
R/o: Madawal village, Gokak taluk,
Belagavi district.
7. Ramesh S/o. Apparayappa Ganachari,
Age: 55 years, Occ: Agriculture,
R/o: Madawal village, Gokak taluk,
Belagavi district.
8. Rajendra S/o. Apparayappa Ganachari,
Age: 47 years, Occ: Agriculture,
R/o: Madawal village, Gokak taluk,
Belagavi district.
9. Adivappa S/o. Shivalingappa Ganachari,
Age: 45 years, Occ: Agriculture,
R/o: Madawal village, Gokak taluk,
Belagavi district.
10. Mallawwa D/o. Shivalingappa Ganachari,
Age: 55 years, Occ: Household,
R/o: Madawal village, Gokak taluk,
Belagavi district.

(D1 to 4 In persons)
(D5 to 8 By Sri.PSA., Advocate)
(D9 By Sri.PMS., Advocate)

I.A. No.6 to 8

Applicants : Rajendra and others
V/s
Opponents : Appayya

COMMON ORDERS ON IA-6 TO 8 FILED UNDER SECTION 151 OF
CPC AND UNDER ORDER 18 RULE 17 OF CPC R/W/S 151 OF CPC

The defendants 5 to 8 have made the instant applications seeking reopening of the case and recalling of PW1 for further cross-examination on the grounds that the plaintiff has filed the suit for the relief of partition in respect of the suit properties against the defendants. On the last occasion the court pleased to pass an order as no cross of PW1 by the defendants 5 to 8 and posted for arguments. Due to heavy work it is not possible them to give the information to their advocate for cross-examination. Hence, it is not possible to cross-examine the PW1 on the last date of hearing.

2. The defendants 5 to 8 appeared through their counsel and filed their written statement and the plaintiff examined himself as PW1 and after his examination-in-chief, the matter was set down for cross-examination of the PW1 and on the last occasion the counsel of the defendants 5 to 8 engaged in the court of the Hon'ble IV Additional District Judge. Hence, his assistant cross-examined the PW1 and sought time for further cross-examination of the PW1 but on the said date further cross-examination of the PW1 was taken as nil and the matter was posted for arguments, further cross-examination of the PW1 was not completed on the last occasion as their counsel was



engaged in the criminal trial. Further cross-examination of the PW1 is essential to bring the true facts before the court and if they are permitted to cross-examine the PW1 then it will assist the court in disposing the matter on merits and even it will prove the fact involved in the suit. Hence, it is necessary to recall the PW1 for further cross-examination. The plaintiff has filed this suit on false grounds, to disprove the same it is necessary to recall the PW1 for further cross-examination. The defendants 5 to 8 state that as their counsel had not signed, their application was rejected but the said application was accompanied by their affidavit.

3. These applications are resisted by the plaintiff contending that they are groundless and averments made therein are false. Similar applications 4 and 5 were filed and were dismissed. Similar facts are stated in the present applications. Hence, they are not maintainable and the court should not allow similar applications. They are devoid of merits. Accordingly, it is prayed for dismissal of the applications with cost.

4. I have heard the arguments of the learned counsel appearing for the parties and perused the material on record.

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

1. Whether the defendants 5 to 8 have made out grounds to allow the present applications?

2. What Order?

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

Point No.1: in affirmative and

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

R E A S O N S

7. Point No.1: as could be seen from the material on record, the applications are resisted by the plaintiff mainly on the ground that the defendants 5 to 8 have filed similar applications and were rejected and facts narrated therein are narrated in the present applications. Hence, they are not maintainable and cannot be allowed. But, the earlier applications filed on the same grounds are rejected on the technical ground that they are not signed by the counsel, who is on record. Hence, there is no bar to allow the present applications. Further, inspite of providing



sufficient time the defendants 5 to 8 have not chosen to complete the cross-examination of the PW1. However, in order to meet the ends of justice and decide the case on merits completely, the applications need to be allowed on cost. Accordingly, the objections of the plaintiff are overruled and the point No.1 is answered in the affirmative.

8. 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-6 to 8 filed Under Section 151 of CPC and Under Order 18 Rule 17 of CPC, are hereby allowed on cost of Rs.300/-.

(Dictated to the stenographer on computer, typed by him, revised, corrected and then pronounced by me in the open Court on this the 13th day of March, 2023)

(K.M.SHANKAR)
I Addl. Senior Civil Judge, Gokak