



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 07th day of March, 2024.

OS.No.890/2022

- Plaintiffs:
1. Balappa S/o Laxmappa Murakibavi,
Age: 63 years, Occ: Agriculture,
R/o: Bojagar Galli, Gokak, Gokak tlauk,
Belagavi district.
 2. Dundavva W/o Ningappa Simyagol,
Age: 55 years, Occ: Household,
R/o: Nipanyal village, Raibag taluk,
Belagavi district.

(By Sri.RBH., Advocate)

V/s

Defendant: Noorjahan
(Impersonating herself as wife of
Ramappa Laxmappa Murakibavi)
Age: 60 years, Occ: Coolie,
R/o: Ambedkar Galli, Gokak,
Gokak taluk, Belagavi district.

(By Sri.SBH., Advocate)

IA-8

Applicant : Noorjahan

V/s

Opponent : Balappa and another

ORDERS ON IA-8 DATED 20.11.2023 FILED UNDER ORDER VIII
RULE 9 & 10 R/W/S 148 & 151 of CPC

Defendant has made the instant application and sought for condonation of delay in non-filing of written statement within 30 days and enlarging time by accepting her written statement on the grounds that the suit is filed for the relief of declaration and injunction on false grounds. After service of summons, she appeared through her counsel and the court granted time to file written statement. She applied for the documents regarding the suit property as advised by her counsel, but same were not available. So, she could not file her WS in time. She collected all the necessary documents from the concerned department and gave instructions to her counsel for drafting of written statement and immediately it was filed. There is some delay in filing the same and is not deliberate. If, the application is not allowed, she will be put to untold hardship. On the contrary, no loss or hardship would be caused to other side if, the application is allowed.

2. As noted in the Order Sheet of the case dated 20.11.2023, the counsel of plaintiffs submitted that the cause title

mentioned in the WS and IA-8 is not in consonance with the cause title of the plaint. Hence, it cannot be allowed.

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

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

1. Whether the application deserves to be allowed?

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; at the outset, the application is not resisted by the plaintiffs on its merits. However, their counsel has submitted that the cause title of the written statement and the application is not in consonance with the cause title of the plaint. Hence, it cannot be allowed. This could be gathered from the written statement and the application.

7. It is well settled that the cause title mentioned in the written statement, application, memo, etc., must be in consonance with the cause title mentioned in the plaint. In the case at hand, as noted hereinabove, the cause title of the application and written statement is contrary to the cause title of the plaint as the words impersonating herself as wife of and also name of father of defendant i.e., Laxmappa is missing in her name. Therefore, the application can be allowed subject to rectification of the said mistake and accordingly 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-8 filed Under Order VIII Rule 9 & 10 R/W/S 148 & 151 of CPC, is hereby allowed subject to rectification of the said mistake in the cause title.

There shall be no order as to cost.

(Dictated to the Typist Copyist on the Computer, typed by her, revised, corrected and then pronounced by me in the open Court on this the 07th day of March, 2024.)

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