

**IN THE COURT OF CIVIL JUDGE & JMFC,
HUKKERI**

Dated this 26th day of February, 2023

PRESENT; SRI. AMBANNA.K

B.COM. LLB.,[Spl]

CIVIL JUDGE & JMFC, HUKKERI.

O.S.No.194/2017

Between:

1. Shri. Basaling S/o. Basavant Chougala

.... Plaintiff

V/s

And:

1. Smt. Shashikala G. Chougala

..... Defendant

PARTIES TO I.A.NO.VIII

Between:

1. Chandrappa Laxman Chougala

.... Applicant/Defendant No.7

V/s

And:

1. Shri. Basaling Basavant Chougala

..Opponent/Plaintiff

ORDERS ON I.A.No.VIII

The counsel for the applicant/defendant No.7 has filed this application under Order 13 Rule 1 R/W. Sec.151 of CPC seeking permission to produce certain documents and to take them on record by allowing this application.

2. The applicant/ defendant No.7 Chandrappa filed this application by stating in sworn affidavit that, they need to

cross-examined the PW 1. While in the cross-examination they need to refer certain documents which are not in record. In fact the plaintiff ought to have produce the said documents along with plaint but he did not produce the same. Hence it is very much necessary to produce the said documents. If the application is allowed no loss or hardship would be caused to other side. If the application is not allowed he will put to untold hardship or injury which cannot be compensated in terms of money. Hence, he prayed to allow the application.

3. On the other hand, counsel for the plaintiff has filed objection to the said I.A. by denying the entire contents of the application and affidavit. In the objection the plaintiff has contended that, if the plaintiff admitted the documents during the cross-examination then only the documents may be confronted and got marked as Exhibits. More over, the defendant No.7 can produce the documents in their evidence. The application filed by the applicant is not maintainable either in law or on facts and prayed to dismiss the application.

4. Heard both the side and perused the records which are available in this case:

5. Now the point that would arise for my consideration is as under:

1) Whether the application filed by the applicant/ defendant No.7 is deserved to be allowed ?

2) What order ?

6. My answer to the above points are as under:
1. In the Affirmative
 2. As per the final order for the following:

REASONS

7. **Point No.1 :-** The plaintiff filed the suit for relief of partition and separate possession against the defendants in respect of suit schedule property. Now the case is posted for further cross-examination of PW 1. At this juncture the defendant No.7 has come up with this interim application for seeking permission of the court to produce certain documents, which is a material document to establish the case. On the other hand the plaintiff has filed objection to IA. It could be seen that the defendant No.7 has filed IA No.VII under Order 7 Rule 11 of CPC for rejection of plaint. In the meanwhile the defendant No.7 has filed this present application for production of documents.

8. It is contention of the defendant No.7 is that, he has produced the ME No.1445 of Shelapur village, Tq: Hukkeri in respect of compromised partition dated 04.07.1998 in respect of suit schedule properties. Therefore, the said document is very much necessary for proper adjudication of the case.

9. It must be noted that, Order 13 Rule 1(2) of CPC states that the court shall receive the documents so produce,

provided that they are accompanied by an list. The defendant No.7 has produced the certified copy of the ME No.1445 in list of documents. Considering the facts and circumstances of the case on hand, it is very much necessary to receive the document which produced by the defendant No.7 to determine the real controversy between parties in the interest of justice. If the application is allowed, no prejudice would be caused to the other side. Hence, this court is of the opinion that, the application is deserves to be allowed. **Accordingly, I answered the point No. 1 in the Affirmative.**

10. **Point No.2:-** For the reasons stated above, I proceed to pass the following:

ORDER

I.A.VIII filed by the applicant U/O
XIII Rule 1 R/w/s. 151 of CPC is hereby
allowed.

No order as to cost.

(Dictated to the Stenographer directly on to the computer and typed by her, corrected and then pronounced by me in the open Court on this the 26th day of February, 2024)

[Ambanna K.]
Civil Judge and J.M.F.C
Hukkeri.

(Order pronounced in open court, vide
separate order)

ORDER

Civil Judge & JMFC, Hukkeri.