

KABG600000322019



**IN THE COURT OF THE SENIOR CIVIL JUDGE, HUKKERI,
ITINERARY COURT AT SANKESHWAR.**

Before: Sri, **K.S.Rotter**, B.Com. LL.B (Spl),
Senior Civil Judge, Hukkeri,
Itinerary Court at Sankeshwar.

Dated this the 23rd day of June 2023

O S No.15/2019

Plaintiffs: Shri Bapu Basappa Meti @ Urabanatti

V/s

Defendants: Smt. Basavva Satappa Meti @ Urabanatti
and others

PARTIES TO IA No.V

Applicant/Plaintiff:

1. **Shri Bapu Basappa Meti @ Urabanatti,**
Age: 39 year, Occ: Agriculture,
R/o: Kochari, Taluk: Hukkeri,
District: Belagavi.

(By Shri B.M. Jirarali, Advocate)

//Versus//

Opponents/defendant No.9 to 12:

1. **Smt. Akkatai Bapu Naik,**
Age: 60 years, Occ: Household work,
R/o: Kochari, Taluk: Hukkeri,
District: Belagavi & three others

(By Shri C.B. Mathapati, Advocate)

Stage of the suit: Cross examination of Pw-1

ORDER ON IA No.V FILED U/O VII RULE 14 CPC

The plaintiff has filed this IA No.V under Order VII Rule 14(3) R/w Section 151 of Civil Procedure Code, for the production of documents, which are produced along with this IA.

2. The above said application is supported by the sworn affidavit of the plaintiff Bapu Basappa Meti @ Urabanatti by stating that, due to non-availability of some documents, they are not produced in material time in this case. Now, the proposed documents are very important and material evidence to prove this case and if the IA is not allowed he will be put irreparable loss and injustice. Hence, he prayed to allow the IA.
3. The said application has been resisted by the defendants No.9 to 12 stating that, the documents produced by the plaintiff are not pertaining to the suit property. It is stated that, the defendants have produced the photo pertaining to the suit property wherein it disclosed that, the defendants have constructed the house in the suit property long back and produced photo discloses that, after construction of

house slap and construction of house is completed long back prior to the filing of the present IA. The plaintiff has filed IA No.V with an intention to demolish the house constructed by the defendants. Hence, the defendants No.9 to 12 prayed to reject the IA No.V.

4. I have heard the arguments.
5. The points that arise for my consideration is;
 1. *Whether it is just and necessary to take the documents on Record, which are produced by the plaintiff?*
 2. *What order?*
6. My findings on the above points are as under :-
 1. In affirmative
 2. As per final order for the following :-

REASONS

7. **Point No.1:** Admittedly, this is a suit filed by plaintiff for the relief of partition and separate possession of his 1/ 8th share in the suit schedule 'A' properties bearing R.S. No.96/1 & 96/2 situated at Kochari village in Hukkeri Taluk. According to the plaintiff, he along with the defendants No.1 to 8 are joint family members and suit schedule properties are their joint family ancestral properties and they are in joint possession and enjoyment of the same without any partition. However, now the

defendants No.9 to 12 colluding with the other defendants have got created some bogus documents and got entered their names to the suit schedule 'A' properties which are not binding on the share of the plaintiff. Therefore, the plaintiff filed this suit for partition and separate possession. Upon service of summons, the defendants No.1 to 12 appeared through their advocates, but the defendants No.1 to 8 have not filed their written statement. On the other hand, the defendants No.9 to 12 filed their written statement denying the case of the plaintiff. Thereafter, this court framed issues and the plaintiff also filed his evidence affidavit as PW.1 and got marked his documents at Ex.P1 to 11. Now the case is fixed for cross-examination of PW.1. At this stage, the plaintiff has filed this IA stating that, due to non-availability of some documents, they have not produced in material time in this case. It is also contended that, the said documents are very important documents material evidence for proving this case. It is stated that, if the application is allowed, no prejudice will be caused to the defendants. On the other hand, the defendants in their objection stated that, the plaintiff has not shown proper reasons for producing the said documents and the said documents are not concerned to the present case and application is not maintainable. However, these contentions of the defendants cannot be

acceptable at this stage, because whether the documents produced by the plaintiff are material for the adjudication of the case on hand or not? is to be looked into at later stage. In this case, yet evidence is not completed. It is settled proposition of law that, parties should be given sufficient opportunity to put forth their case. The documents produced by the plaintiff such as, photos and CD pertaining to the suit properties. It is true that, the plaintiff should have been diligent in producing these important documents at the time of presenting the plaint but on that ground the application cannot be rejected. Since, it would be as good as shutting a heavy important piece of evidence. If this IA is not allowed injustice would be caused to the plaintiff than the defendants. Anyhow, the defendants will have the opportunity to cross-examine the plaintiff on these documents and on their defence. Hence, the question of causing prejudice to the defendants does not arise. Hence, without much discussion I come to the conclusion that, IA filed by the plaintiff for production of documents deserved to be allowed. Accordingly I answer point No.1 in affirmative.

8. **Point No.2:** In view of the findings on the above point, I proceed to pass the following:-

ORDER

The I.A. No.V filed by the plaintiff under Order VII Rule 14(3) R/w Section 151 of Civil Procedure Code is allowed.

Accordingly, the documents which are produced by the plaintiff along with IA are received on record subject to the proof and relevancy.

No orders as Costs.

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced in open court on this 23rd day of June 2023).

-Sd/-

(K.S.Rotter),

Senior Civil Judge, Hukkeri,
Itinerary Court at Sankeshwar.