

**ORDER ON IA NO.XII**

i.	Provision under which the application is filed	:	U/o.XVI Rule 15 R/w.sec.151 of CPC.
ii.	Relief sought for	:	For issuance of summons to produce documents.
iii.	The date on which the application is filed	:	03.01.2024
iv.	Number of the application	:	IA.No.XII
v.	The date on which the objection is filed by different opponents	:	The plaintiffs filed objection on 08.01.2024. The defendant No.4 filed objection on 12.04.2024. Arguments concluded on 07.02.2024.
vi.	The date on which the order was passed on the said application	:	06.04.2024.

1. The counter claimant/defendant No.2 has filed I.A.No.XII U/o.XVI Rule 15 R/w.Sec.151 of CPC, with a prayer to issue summons to the following banks to produce the statement of accounts shown here under :

**(1) PKPS Bank Gothe village, Tq : Jamkhandi**

Sl. No.	Name of account holder	Account Number	Name of the bank
1	Channayya S/o. Mallayya Math. (Father of defendants No.2 & 3)	SB A/c No.1216	PKPS Bank, Gothe village, Tq : Jamkhandi
2	Smt. Bouravva W/o. Channayya Math i.e., plaintiff No.1 (Mother of defendants No.2 & 3)	SB. A/C No.2259	PKPS Bank, Gothe village, Tq : Jamkhandi
3	Arun S/o. Basavaraj Gourimath i.e, defendant No.4 (Son of plaintiff No.2)	SB. A/c No.5257	PKPS Bank, Gothe village, Tq : Jamkhandi

**(2) BDCC Bank, Savalagi Branch, Tq : Jamkhandi**

Sl. No.	Name of account holder	Account Number	Name of the bank
1	Channayya S/o. Mallayya Math. (Father of defendants No.2 & 3)	SB/FD. A/c No.10020/1361	BDCC Bank, Savalagi Branch, Tq : Jamkhandi

**(3) Commercial Bank Bagalkot.**

Sl. No.	Name of account holder	Account Number	Name of the bank
1	Arun S/o. Basavaraj Gourimath i.e, defendant No.4 (Son of plaintiff No.2)	SB A/c No.02410020000 7074 (IFSC Code IBKLO1071BD)	Commercial Bank, Bagalkot

**(4) The Manager, Karnataka Vikas Grameen Bank, Gothe village, Tq : Jamkhandi**

Sl. No.	Name of account holder	Account Number	Name of the bank
1	Smt. Bouravva W/o. Channayya Math i.e., plaintiff No.1	SB A/c No.17128040489	Karnataka Vikas Grameen Bank
2	Smt. Sushila W/o. Basavaraj Gourimath i.e., plaintiff No.2	SB. A/C No.89037360618	Karnataka Vikas Grameen Bank
3	Arun S/o. Basavaraj Gourimath i.e., defendant No.4	SB. A/c No.17128035048	Karnataka Vikas Grameen Bank

**(5) The Manager account section Jamkhandi Sugars Hipadasalagi village, Tq : Jamkhandi.**

(6) The Manager account section Nirani Sugars Niyamit, Mudhol.

(7) The Manager account section Prabhulingeshwar Sugars Niyamit, Siddapur.

2. In support of above application, defendant No.2, has sworn to an affidavit, wherein she mainly stated that, the plaintiff No.1 is her mother, the plaintiff No.2, defendants No.1 & 3 are her sisters. Her father by name Channayya S/o. Mallayya Math died on 29.07.2020 leaving behind the plaintiffs & defendants as his legal heirs. She further stated that, her father was running wholesale grocery business. During his life time he sold 14 acres of land situated at Gadyal village for a consideration amount of Rs. 1,12,00,000/-. Therefore the plaintiffs & defendants are equally entitled for share in the said sum. She further stated that, the plaintiff No.2 & her son defendant No.4 have failed to disburse said sum to her despite advice made by the elderly persons of the village. Now said defendants & bank officials have colluded with each other and declined to issue statement of bank accounts. Therefore aforesaid statement of accounts are necessary to prove her counter claim. She further stated that, she had requested the bank authorities to issue statement of accounts stated supra, but they did not respond to her. Hence she is constrained to file this application. She further stated that, if above application is allowed, no loss, injustice or inconvenience would be caused to the plaintiffs & other defendants. On the other hand, if above application is not allowed, she would be put to irreparable loss, injustice & inconvenience. With this, she prayed to allow above application.

3. Counsel for the plaintiffs has filed objection to above application contending that, the application filed by the defendant No.2 U/o. XVI Rule 15 R/w.Sec.151 of CPC is not maintainable in law or on facts. The defendant No.2 & 3 are already enjoying the suit land bearing RS.No.233/1 measuring 10 acre 08 gunta and RS.No.447/2/1 measuring 09 acre 20 gunta situated at Kotyal & Gothe village respectively. He further contended that, the documents sought by the defendant No.2 are no way concerned to the subject matter of the suit. Though the Hon'ble High Court of Karnataka has given direction for disposal of the case as soon as possible, the defendants No.2 & 3 are not co-operating with the court for disposal of the case. The counsel further contended that, the plaintiff No.1 is aged about 85 years and suffering from severe illness. Such being the facts, the defendants No.2 & 3 have filed this application only with intent to harass the plaintiff No.1. The counsel further contended that, the documents sought to be produced, in above application are all the public documents. The Secretary or Manager of the banks have not given any endorsement for non issuing the documents. No any grounds made out by the defendant No.2 to issue summons to the bank authorities. With these contentions, counsel for the plaintiffs has prayed for rejection of above application with heavy costs.

4. Counsel for the defendant No.4 has filed a memo stating that, the defendant No.4 adopts the objection filed by the plaintiffs to IA.No.XII.

5. Heard both side. Perused written argument, application, objection, pleadings & other materials on record. Upon going through the same, the following points arise for consideration:

**POINTS**

**Point No.1:** Whether the counter claimant/defendant No.2 has made out grounds to allow above application?

**Point No.2:** What order?

6. This court answers to above points as under:

Point No.1: In partly affirmative;

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

**REASONS**

7. **Point No.1:** The plaint reveals that, the plaintiffs have filed this suit for the relief of partition & separate possession claiming 1/5<sup>th</sup> share each in the suit schedule properties. On the contrary, the defendant No.2 has resisted the claim of the plaintiffs by filing her written statement as well as counter claim.

8. The defendant No.2 has contended in her written statement & counter claim that, herself, plaintiffs & other defendants are entitled for share in the sale proceeds of the land situated at Gadyal village. The said sale proceeds i.e., sale consideration amount of Rs.1,41,66,050/- has been shown as subject matter of the counter claim. She further contended that, the plaintiffs & defendant No.4 have retained said sum with them.

9. In the above application, the defendant No.2 has specifically contended that, aforesaid documents are relevant documents to prove her contentions. Since aforesaid banks/co-operative societies have declined to issue the statement of accounts, she is constrained to file this application. On the contrary, the plaintiffs & defendant No.4

have not specifically denied all the contents of affidavit annexed to above application. However having regard to the overall pleadings, this court is of opinion that, it is just & necessary to issue summons to the banks/co-operatives societies shown at Sl.No.1 to 4 to produce the statements of accounts as sought in the application.

**10.** In so far as issuance of summons to the Sugar Factories shown at Sl.No.5 to 7 is concerned, it is to note here that, the defendant No.2 has only prayed to issue summons to said Sugar Factories without mentioning the particulars of documents. Therefore in the absence of particulars of documents no summons can be issued against them. Considering above facts & circumstances, this court is of opinion that, the defendant No.2 has made out grounds only to issue summons to the banks/co-operative societies shown at Sl.No.1 to 4 in the application. In view of above discussion, Point No.1 is answered in partly affirmative.

**11. Point No.2:** In view of above findings, the following order is passed.

### **ORDER**

IA No.XII filed U/o.XVI Rule 15 R/w. Sec.151 of CPC by the counter claimant/defendant No.2 is hereby partly allowed.

Issue summons to banks/co-operative society shown at Sl.No1 to 4 in IA.No.XII to produce the documents as sought in aforesaid application, if requisite P.F. & IA copies furnished.

The counter claimant/defendant No.2 shall  
bear the charges of the documents shown in  
IA.No.XII.

No order as to costs.

R/by : 25.04.2024.

**Sd/-**

**Addl Sr. Civil Judge,  
Jamkhandi**