

ORDER ON I.A.No.IV & V

Plaintiff has filed I.A.No.4 under Order 7 Rule 14 (3) of CPC., seeking permission to produce the additional documents. Plaintiff has filed I.A.No.5 under order 1 Rule 10(2) R/w sec.151 of CPC., to implead proposed defendant as defendant No.12.

2. Plaintiff has sworn to an affidavit in support of I.A.No.4 and contended that he has filed this suit for partition and separate possession. He has led chief-examination and got marked some documents and now the matter is posted for further chief examination of PW.1. At this stage he intends to produce some additional documents pertaining to suit schedule property. These documents are very much material and relevant to the proper adjudication of the matter in dispute. If the application is allowed, no hardship or injury will be caused to the defendants. On the other hand if this I.A is dismissed, plaintiff will be put to great hardship and injury which cannot be compensated in any means. Hence, prays to allow the application in the interest of justice.

3. Defendants have filed objection and denied entire I.A and affidavit averments as false and further contended that additional documents are not necessary to prove the case. Plaintiffs have not whispered anything in their application or the affidavit with regard to delay cause in production of these documents. In the absence of

assigning proper reasons, documents cannot be taken on board. Hence prays to dismiss the application with cost in the interest of justice and equity.

4. Plaintiff has sworn to an affidavit in support of I.A.No.5 and contended that recently came to know that during the pendency of the suit defendant No.12 has purchased item No.6 from defendant No.5 to 9 under Registered sale deed dated:26.12.2014 and hence purchaser is necessary party to the suit for proper adjudication of the matter in dispute. Hence, prays to allow the I.A.No.5 in the interest of justice and equity.

5. In spite of issuance of notice to proposed defendant, he has remained absent and not filed objection.

6. The points that arise for my consideration are as follows;

1. Whether I.A.No.IV filed by the plaintiff under Order 7 Rule 14(3) of CPC and I.A.No.V filed under order 1 Rule 10(2) of CPC is deserves to be allowed?
2. Whether I.A.No.V filed under order 1 Rule 10(2) of CPC is deserves to be allowed?
3. What order?

6. Heard affidavit and objection averments and perused the materials placed before me.

8. My findings to the above points are as follows;

POINT No.1 : In the Affirmative

POINT No.2 : In the Affirmative

POINT No.3 : As per final order

for the following;

REASONS

7. POINT NO.1: Heard and perused the materials placed before me. On its perusal it goes to show that the plaintiffs have filed the suit for partition and separate possession. PW.1 has led evidence and now the matter is posted for further chief examination and at this stage he has filed I.A.No.4 along with 3 documents as additional documents, they are Registered sale deed dated:26.12.2014, RTC's and MR extract. Defendants have formally filed objection. Those additional documents are relevant for proper adjudication of the matter in dispute. There is no impediment in allowing the I.A. Plaintiff has made out valid grounds to condone the delay in production of the documents. Accordingly, I.A No.4 deserves to be allowed. The delay caused to the plaintiff is hereby condoned. Accordingly, I Answer **Point No.1 in the Affirmative.**

8. POINT No.2: It is the case of the plaintiff that during the pendency of the suit defendant No.5 to 9 have alienated item No.6 in favour of defendant No.12 under Registered sale deed dated:26.12.2014 and said purchaser is proper and necessary party to the suit. In support of her contention she has relied upon Registered sale deed dated:26.12.2014 which goes to show that defendant No.5 to 9 have alienated item No.6 in favour of proposed defendant. Since this is a suit for partition and separate possession wherein plaintiff has contended that all the suit schedule property are her Ancestral and Joint Family properties and during the pendency of this suit item No.6 is purchased by proposed defendant

No.12, he is proper and necessary party to the suit. Moreover inspite of service of notice on I.A.No.5, said proposed defendant has remained absent and failed to file objection. Plaintiffs have made out valid grounds to implead proposed defendant for proper adjudication of the matter in dispute. Hence, I answer **Point No.2 in the Affirmative.**

9. POINT No.3: For the aforesaid reasons. I proceed to pass the following;

: ORDER :

I.A.No.IV filed by the plaintiff under Order 7 Rule 14(3) of CPC., is hereby allowed on cost of Rs.200/-.

I.A.No.V filed by the plaintiff under Order 1 Rule 10(2) of CPC., is hereby allowed.

The proposed defendant by name Ashwata S/o Late Chikkanarasappa is hereby impleaded as defendant No.12.

For further Chief-examination of PW.1 and to carryout amendment and furnish amended plaint.-02.03.2026.

(SHILPA.H.A)
Senior Civil Judge & JMFC.,
Doddaballapura.