

07.04.2026

For orders

COMMON ORDER

Defendant No.3 has filed the application under Section 151 of the Code of Civil Procedure, 1908 (Hereinafter referred to as 'C.P.C.,' for brevity) seeking re-open the evidence of defendant No.3 and; application under Order XVIII Rule 17 of CPC seeking to permit the defendant No.3 to adduced further defendant evidence; and application under Order XVI Rule 6 and 7 of CPC seeking to summon Sub-Registrar, Hosakote to cause produce thumb book and register book of sale deed dated 18.12.1997 registered as document No.1813/97-98 of Book-1, Volume No.2200 at Page No.68-75 registered in the office of the Sub-Registrar, Hosakote and; application under Order XVI Rule 7A(2) of CPC seeking to issue witness summons by hand to witness no.4 and 5 of the list of witness dated 13.02.2026.

2. It is averred in the affidavit annexed to the applications that, witness summons issued to witness No.1 to 3 returned as dead and witness No.5 un served and witness No.4 appeared and and did not produce the documents sought by the defendant No.3. Thereafter, junior counsel appearing for the counsel of defendant No.3 sought time to lead further evidence. But, this Court rejected the prayer and posted for arguments. An examination of Sub-Registrar, Hosakote is essential to prove the

case of the defendant No.3. Hence prayed for allowing the applications.

3. Per contra, the plaintiff resisted the applications by filing objection and contended that, the applications are false, frivolous, vexatious and not maintainable in law or on facts. There is direction by the Hon'ble High Court of Karnataka in W.P. No.217/2023 (GM-CPC) dated 19.11.2024 to dispose of the case within outer limit of one year from the date of order. During the pendency of the proceedings, the defendant No.3 filed similar applications and same were allowed on cost. Thereafter, witness No.4 appeared before the Court in person. But, the counsel for the defendant No.3 did not choose to examine the witness. Therefore, this court discharged the witness. Now, the defendant No.3 has filed the present applications to drag on the proceedings. Hence, the plaintiff has sought for dismissal of the applications.

4. The points that would arise for consideration are:-

1. Whether the applications filed by the defendant No.3 under Section 151 of C.P.C.; and under Order XVIII Rule 17 of CPC.; and under Order XVI Rule 6 and 7 of CPC and under Order XVI Rule 7A(2) of CPC are deserves to be allowed?
2. What order?

5. I have heard the Learned Counsel for the parties and meticulously perused the materials on record.

6. My answer to the above said points are as under:

Point No.1: In the Negative;

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

REASONS

7. **Point No.1:-** The plaintiffs have filed the present suit against the defendants for the relief of declaration to declare that they are the absolute owners and in possession of the suit schedule property and sale deed dated 18.12.1997 executed by defendant No.1 infavor of defendant No.2 and 3 is null and void. The learned counsel for the defendant No.3 submitted that an examination of proposed witness is very much necessary to prove the case of the defendant No.3. If the applications are not allowed the defendant No.3 will be put to great hardship and injury, if the applications are allowed no prejudice will be caused to the other side. As such, he prayed to allow the applications. Counter to that, the learned counsel for the plaintiffs to refute the argument canvassed by the learned counsel for the defendant No.3 argued that, the applications are have no merits and they had been filed to drag on the proceedings. As such, he prayed to dismissal of the applications.

8. When the matter was posted for arguments, at this stage the defendant No.3 has filed the present applications. Before discussing on merits of the application, it is worth to refer conduct of the defendant No.3, which is being reproduced below:

15.10.2025	For defendant evidence.
17.10.2025	Defendant absent. Counsel prays time for defendant evidence.
25.10.2025	Defendant No.3 files affidavit in lieu of examination in chief and examined as DW.1 and got marked Ex.D3 to Ex.D42. For cross examination of DW.1.
30.10.2025	DW.1 is present. Counsels for defendant No.3 files application U/o 18 rule 17 of CPC and application U/o 8 Rule 1(a) of CPC for order.
04.11.2025	The counsel for the defendant No.4 files application u/sec 151 of CPC seeking to reopen the evidence of plaintiff and application u/o 18 rule 17 of CPC seeking to recall PW.1 and permit them to cross examination of PW.1. for objection.
10.11.2025	For objection
14.11.2025	The counsel for the defendant No.3 files application u/o 8 rule 1(a) of CPC for objection.
18.11.2025	For cross examination of PW.1

finally as last chance.

05.12.2025 PW.1 is present. Counsel for defendants prays time for cross of P.W.1

12.12.2025 For further cross of P.W.1.

17.12.2025 For further chief of DW.1

06.11.2026

20.01.2026 DW.1 further chief examined and got marked Ex.D 46 to 62. For further Cross of DW.1.

29.01.2026 For further Cross of DW.1.

11.02.2026 For further Cross of DW.1.

To

12.02.2026

17.02.2026 The counsel for defendant No.3 files application u/o 16 Rule 1 and 2 of CPC and application U/o 16 rule 6 and 7 of CPC and for objection.

24.02.2026 The reason assigned for delay in filing list of witness is justified. Hence, application filed u/o 16 rule 1 of CPC and application u/o 16 rule 7(a) of CPC and u/o 16 rule 6 of CPC are allowed oncost of Rs.200/-. Issue witness summons if P.f paid.

11.03.2026 Case called out. Summons issued to witness no.4 and 5 duly served. Summons issued to witness no.1 to 3 returned as dead. Witness No.4/Sub Registrar Hoskote is

present. The counsel for the defendant no.3 prays time for examination of witness. In the case on hand, the Hon'ble High Court of Karnataka, Bengaluru have issued direction to dispose the matter within outer limit of one year. Despite that the defendants are prolonging the matter for one or other reason by filing series of interim application. Witness No.4/Sub registrar, Hoskote is official witness. No grounds made out to adjourn further. Hence, witness No.4 is discharged. Witness no.5 is called out absent. For arguments.

9. On perusal of the above, it shows that the defendants had prolonged the matter as long period as possible. The feint of the defendants cannot be bearable. In the case on hand, the defendant No.3 has filed the similar applications and despite allowing the same, the counsel for the defendant No.3 did not choose to examine the witness No.4 and sought for adornments. Therefore, this Court rejected the prayer and posted for arguments. It is beneficial to re-produce the order dated 11.03.2026 which is reproduced as under:

Case called out. Summons issued to witness no.4 and 5 duly served. Summons issued to witness no.1 to 3 returned as dead. Witness No.4/Sub Registrar Hoskote is present. The counsel for the defendant no.3 prays time for examination of witness. In the case on hand, the Hon'ble High Court of Karnataka, Bengaluru have issued direction to dispose the matter within outer limit of one year. Despite that the defendants are prolonging the matter for one or other reason by filing series of interim application. Witness

No.4/Sub registrar, Hoskote is official witness. No grounds made out to adjourn further. Hence, witness No.4 is discharged. Witness no.5 is called out absent. For arguments.

10. In the case on hand, the Hon'ble High Court of Karnataka, Bengaluru have given directions to dispose of the case within an outer limit of one year in W.P. No.217/2023 (GM-CPC) dated 19.11.2024. Despite that, the defendant No.3 is protracting the proceedings. The present applications filed by the defendant No.3 looks like a strategy to prolong the matter. Considering the facts and circumstances of the case, the document now sought to be summoned is not necessary to the adjudication of the suit. Therefore, the defendant No.3 has not made out reason to allow the application. Accordingly, I answer point No. 1 in the 'Negative'.

11. **Point No.2:-** In view of discussion and the findings arrived at point No.1, I proceed to pass the following:

ORDER

Application filed by the defendant No.3 under Section 151 of C.P.C.,; and under Order XVIII Rule 17 of CPC.; and under Order XVI Rule 6 and 7 of CPC and under Order XVI Rule 7A(2) of CPC are dismissed with cost of Rs.500/-.

For arguments final by:

**Prl. Civil Judge & JMFC.,
Hosakote.**