

COMMON ORDER

The plaintiffs have filed the present application under Section 151 of the Code of Civil Procedure, 1908 (Hereinafter referred to as 'C.P.C.,' for brevity) seeking to recall PW.1 and permit him to adduce further chief examination and application under Order VII Rule 14 (3) read with Section 151 of the Code of Civil Procedure, 1908 (Hereinafter referred to as 'C.P.C.,' for brevity) seeking to condone the delay and receive the documents.

2. It is averred in the affidavit annexed to the application that, the documents now sought to be produced are misplaced and traced recently. The above documents are very much necessary for adjudicating the matter. The delay in producing the documents is not deliberate but bonafide. If the application is allowed no way prejudice to the other side. With these, prayed to allow the application.

3. Per contra, the defendants resisted the applications by filing common objection. It is contended that the application is not maintainable in law or on facts. The plaintiff has not stated anything about the document now sought to be produced and same is created. The reasons assigned in the affidavit are neither true nor

maintainable. Thus, the defendants have sought for dismissal of the application.

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

1. Whether the applications filed by the plaintiffs is deserves to be allowed?
2. What order?

5. I have heard the learned counsel for the parties to the lis and meticulously perused the material on record.

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

Point No.1: In the Affirmative;

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 declaration of title and permanent injunction. The learned counsel for the plaintiffs argued that the document now sought to be produced is much necessary for adjudicating the matter. If the application is allowed, no way prejudice to the defendants. As such, he prayed to allow the application. Counter to that, the Learned Counsel for the defendants

argued that the document now sought to be produced is one created. There is an inordinate in delay in producing the same. As such, he prayed to dismissal of the application.

8. When the matter was posted for cross-examination of PW.1, at this stage the plaintiffs have filed the present application. Perused the document now sought to be produced. The documents now sought to be produced are registered documents. It is settled law that when the rights of the parties are involved in respect of the immovable properties, the parties should be given an opportunity to put forth their respective case and the substantial rights of the parties should not be decline on grounds of delay. The reasons assigned by the plaintiffs are justifiable and sufficient. If the applications are allowed, no way prejudice to the defendants. If any prejudice will be caused to the defendants same may be compensated by imposing cost on the plaintiff. Accordingly, I answer point No.1 in the **Affirmative**.

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

ORDER

The application filed under Section 151 CPC., and application under Order VII Rule 14 (3) read with Section 151 of CPC are allowed on cost of Rs.200/- each.

Consequently, PW.1 is recalled and permitted adduce further chief examination.

Call on:

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