

**COMMON ORDERS ON I.A.No.23 & 24 FILED BY
THE DEFENDANT NO. 2[a], 2[b], 3[a] TO 3[c],
4[a] TO 4[f] U/SEC.151 & U/O. XVIII R.17 OF
CPC**

The defendant No.2[a],2[b], 3[a] to 3[c], 4[a] to 4[f] have filed these 2 applications U/Sec. 151 & U/O.XVIII R. 17 of CPC and pray the Court to reopen the case and recall DW.1 to lead his further chief examination.

2. They have filed documents before the Court on the previous date of hearing . In order to get those documents marked as their exhibits, it is necessary to recall the DW.2. Hence, they pray the Court to allow their applications.

3. The plaintiffs objected this application and filed their written objections contending that, the case now stands posted for hearing arguments on merits. The documents now sought to be marked as exhibits are not admissible in law. The documents produced by the P.A. holder of the defendants are

unregistered documents, which are written on in sufficiently stamped papers. In order to prolong the proceedings, these applications came to be filed. Accordingly, they prayed the Court to dismiss the applications.

4. I have heard both the counsels on these applications.

5. The following points arise for my consideration:

1. Whether the defendant No.2[a],2[b], 3[a] to 3[c], 4[a] to 4[f] have assigned good reasons to reopen the case and to recall DW.2 for the purpose of further chief examination?

2. What order ?

6. On the basis of the pleadings and the contentions taken by the defendant No.2[a],2[b], 3[a] to 3[c], 4[a] to 4[f] , in their applications, my answers to the above points are as under:

Point No.1 : In negative

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

REASONS

Point No.1 :

7. The plaintiffs have filed this suit seeking the relief of declaration that themselves and defendant No.1 are the joint owners of “A” schedule property and for possession of “B” schedule property and for permanent injunction.

8. Now the case stands posted for hearing arguments on merits. This is a 9 year old case. The defendants are filing one or the other applications and prolonging the matter by one or the other reasons.

9. Earlier they had filed similar application seeking permission to produce the documents and recall the DW.2. The Court allowed the application U/O. VIII R. 1(3) of CPC and dismissed the

application, which was filed to recall DW.2. They have produced unregistered sale agreement dated 26.07.1977. They want get the said agreement marked as their exhibit. But, it is written on insufficiently stamped papers, which is not admissible under law.

10. They are not saying that, they are ready to pay the deficit stamp duty and penalty on that unregistered agreement and then get the said document marked as their exhibit. They did not produce those documents, when the DW.1 and 2 stepped into the witness box.

11. They filed the documents, when the matter reached to its fag end of hearing arguments on merits. They are not seeking permission to pay deficit stamp duty and penalty as required under law and thereafter get the document marked as their exhibit. Without seeking such permission, they are

filing one or the other applications and prolonging the matter.

12. No purpose would be served by recalling DW.2. Because, the Court has already ordered that, the documents produced by the defendants cannot be marked as exhibits, as it is written on insufficiently stamped paper and it is unregistered document.

13. In spite of it, these defendants are filing the applications and prolonging the matter. The applications filed by the defendants is devoid of merits. Therefore, the applications filed by the defendants required to be dismissed with costs. Accordingly, I answer point No. 1 in negative.

Point No. 2: For the afore said reasons, I proceed to pass the following:

ORDER

I.A No. 23 & 24 filed by the defendant
No.2[a],2[b], 3[a] to 3[c], 4[a] to 4[f]

U/Sec. 151 & U/O. XVIII R.17 of CPC
are hereby dismissed with costs of Rs.
500/-.

For arguments. Finally
06.02.2021.

Sr. Civil Judge & JMFC.,
Hiriyur.