

ORDERS ON IA NO.4

The plaintiff has filed I.A.No.4 U/O.16 Rule 1 & 2 of CPC for seeking for permission to file the witness list for condoning the delay. In the accompanying affidavit the plaintiff has contended that the plaintiff has filed the suit against the defendants for relief of permanent injunction in respect of the suit schedule property. In order to prove his case he has examined himself as PW.1. Further in order to prove the case and for the corroboration of his evidence, there is a need for examination of independent witnesses. Therefore, this plaintiff has filed this I.A. and furnished the names and addresses of the material witnesses to be examined in his favour. Further averred that on the last date of hearing his advocate has not brought to his

knowledge about the fact for non filing of witness list. Therefore, filing of witness list the above said delay is bona-fide one and not intentional. Therefore prays to allow the I.A..

2.The defendant counsel has not filed objections for I.A.no.4. Hence, objection taken as not filed.

3. The points that would arise for my consideration;

POINTS

1. Whether the I.A.No.4 filed by the plaintiff U/o.16 Rule 1 & 2 of CPC is deserves to be allowed?

2. What Order?

4. My Answers to the above points:

Point No.1 - In the Affirmative

Point No.2 - As per final order for the following reasons;

REASONS

5. On perusal of the Order sheet and I.A., it is very clearly appears that the plaintiff has filed the suit for permanent injunction against the defendants and now the case is posed for plaintiff evidence. Further in support of the plaintiff, he has

examined as PW.1 and further this plaintiff has filed this I.A. for further evidence to examine the list of witnesses for the corroboration of his evidence. It is very well established law that all the parties should be given an opportunity to prosecute their case and examine their witnesses in their support and no one should be unheard. Having adopted the above principle in my considered opinion it is proper to give an opportunity to the plaintiff to examine the witnesses in his support. In case if the delay caused to him is not condoned, definitely it will defeat the interest of the plaintiff. Therefore in the interest of natural justice and equity in my considered opinion plaintiff is entitled for condoning the delay in filing the witnesses list. Therefore, in my considered opinion I answer the Point no.1 in the '**Affirmative**'.

6.Point no.2 : As per the above said reasons and discussion, I proceed to pass the following;

ORDER

IA No.4 filed by the plaintiff U/o 16 Rule 1 & 2 of CPC is hereby allowed.

Witnesses list taken as record.

OS-33-2017

Issues summons to witnesses as
stated in the list.

Call on for further evidence by
20-02-2021.

Civil & JMFC, Molakalmuru.

OS-33-2017