



**IN THE COURT OF PRL. SENIOR CIVIL JUDGE, &
C.J.M., CHIKKAMAGALURU**

**Present : Smt. Kumari Sujatha.
B.com.L.L.B.,
Prl. Senior Civil Judge & CJM.,
Chikkamagaluru.**

OS. No. 71/2022

Dated this the 15th day of December, 2025.

Plaintiffs : Sri. Kanthi Lal

(By Sri AKM., Advocate)

V/s

Defendants : Sri. Anthony D'Souza & Others

**(D.1, 2, 4 by Sri.S.P. Advocate)
(D.5 by Sri.MRY, Advocate)
(D.3 Ex-parte)**

PARTIES TO I.A. No. XI

Plaintiff : Kanthilal

V/s

Defendants : Anthony D'Souza & Others



ORDER ON I.A. NO.XI

The instant Application is filed by the Learned Counsel for the Plaintiff under Order 12 Rule 8 R/w Sec.151 of CPC with prayer to direct the Defendants to produce the original agreement said to have been entered in to between them interse which has been admitted by the Defendant No.5.

2. This Application is resisted by the Learned Counsel for the Defendant No.5 by filing his detailed Objections with a prayer to dismiss the Application.

3. Heard both sides.

4. Perused I.A., Affidavit, Objection and the materials available on record.

5. Now the Point arises for the determination of this court are as under :

POINTS

1) Whether the Learned Counsel for the Plaintiff has made out sufficient grounds to allow IA. No. XI filed under Order 12 Rule 8 R/w Sec.151 of CPC?

2) What Order ?



6. My findings on the above Points are as under :

Point No. 1 : In the Affirmative

**Point No. 2 : As per the final Order,
for the following**

REASONS

Point No. 1 :-

7. The instant Application is filed by the Learned Counsel for the Plaintiff with prayer to direct the Defendants to produce the original agreement said to have been entered in to between them interse. This application is supported by an affidavit of the Plaintiff stating that he has filed suit against the Defendants. He further stated that one Mr.Joy KLF D'Souza who is the Power of Attorney Holder of the Defendant No.5 has been examined as DW.1 and he has admitted that he is having original agreement with him and he has undertaken to produce the same before Court. But, for the reasons best know to him, he has not produced the documents, though a notice issued to produce the documents. Hence, he has prayed to allow the application.



8. On the other hand, the Learned Counsel for Defendant No.5 has filed his detailed objections inter-alia contended that the documents as mentioned in the notice (Original Agreement), is misplaced. Hence, he could not able to produce the same before this Court. Further, if it is traced out, he will produce the same before the Court and the original agreement is not necessary to decide the case. Hence, he has prayed to reject the application.

9. I have gone through the materials available on record. This suit is filed by the Plaintiff against the Defendants for Declaration. Admittedly, in the cross-examination of DW.1, he has admitted that the original agreement which entered into between the 1st Defendant and himself is with him. Further he has deposed that he did not have any problem to produce the same before the Court. Though in the Objection, Learned Counsel for Defendant No.5 has mentioned that the same is misplaced, the evidence of DW.1 clearly shows that he is having the original documents with him. Hence, it is essential to direct the Defendant No.5 to



produce the said original agreement for the proper and effective adjudication of the suit. Accordingly, I answer point No.1 in the **'Affirmative'**.

10. **Point No.2** : As per my detailed discussion to Point No.1 as stated supra, and my answer to the above Point No.1 is **'in the Affirmative'**, I proceed to pass the following:

ORDER

I.A.No.XI filed by the Learned Counsel for the Plaintiff under Order 12 Rule 8 r/w section 151 of CPC, is hereby allowed.

The Defendant No.5 is hereby directed to produce the document i.e., the original agreement which is shown in the application.

No order as to costs.

(Dictated to the stenographer, computerized and Print-out taken by her, Script corrected, signed and then pronounced by me in the open Court on this day **15th day of December 2025**)

Sd/-

**(Smt. Kumari Sujatha)
Prl. Senior Civil Judge & CJM
Chikkamagaluru**