

KACM200000662022



IN THE COURT OF SENIOR CIVIL JUDGE,
AT: KADUR

Present:- Sri. IRFAN.
B.A., LL.B.,
Senior Civil Judge & JMFC,
Kadur, Chikkamagaluru District.

Dated: this the 28th June - 2024

O.S.No.20/2022

Plaintiff:- Smt. Mamatha M.S.
(By: Sri. D.S., Advocate)

V/s

Defendants:- Smt. Shreeja & others.
(By : Sri. J.P.G., Advocate)

RANK OF THE PARTIES ON I.A.NO.7, 8 & 11

Applicant/
Plaintiff : Smt. Mamatha M.S.,
V/s

Opponents/
Defendants : Smt. Shreeja and others.



i	<i>Provision under which the application is filed</i>	<i>U/O 18 Rule 17 R/w Sec.151 of CPC.</i> <i>U/S 151 of CPC</i> <i>U/O VII Rule 14(3) R/w Sec.151 of CPC</i>
ii	<i>Relief sought for</i>	<i>Recall of PW-1 for further evidence</i> <i>Re-open the case</i> <i>Permit the plaintiff to produce the enlisted documents.</i>
iii	<i>The date on which the application is filed</i>	<i>14.02.2024 IA No.7 and 8</i> <i>18.09.2024 IA No.11.</i>
iv	<i>Number of the application</i>	<i>7, 8 and 11.</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>19.11.2024.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>28.06.2025.</i>

When the case is posted for further cross of DW-1., the plaintiff has filed this application.

COMMON ORDERS ON I.A.7, 8 & 11

The applicant / plaintiff has filed I.A.No.7, 8 and 11 under Order 18 Rule 17 R/w Sec.151 of CPC, Sec.151 of CPC and U/O VII Rule 14(3) R/w Sec.151 of CPC seeking to re-open the stage by recalling PW-1 for the



production of enlisted documents, in the interest of justice and equity.

2. This application is supported by an affidavit filed by the plaintiff. The gist of the application averments is that due to inconvenience and inadvertence on the last date of hearing she could not produce the enlisted documents before the court and same is not intentional, but for the bonafide reasons and also same are necessary to prove her case and accordingly, sought to allow the applications.

3. The defendants have filed objections, wherein it is specifically asserted that the application filed by the plaintiff is wholly misconceived. The plaintiff has specifically states before this court that there is no further chief and also taken several adjournments for producing the documents at that juncture. The cross-examination of the defendant was partly done on 24.01.2024 and further cross of DW-1 is due and incomplete, at this stage, the plaintiff with malafide intent to fill-up lacuna by introducing further documents along with application to balance their case and convenience. The plaintiff intentionally not mentioned the name of the documents in their



applications and affidavits. The plaintiff has suppressed the accurate facts of the case and moulded the documents as well as electronic form of documents to diverge the court and it is a clearly abusive of law. In view of the above facts, the defendants prays to dismiss the application with an exemplary costs.

4. Heard learned counsel for the petitioners and respondent.

5. The points arise for my consideration is as follows;

1. Whether the applicant / plaintiff has made out grounds to reopen the case by recalling PW-1 for further examination and also to produce the enlisted documents, as sought?

2. What order?

6. My answer on the above 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 plaintiff has filed this suit seeking for the relief of partition and separate possession of suit schedule properties by metes and bounds. Along with IA, the plaintiff has produced the Survival members certificate, School admission extract of plaintiff, Copies of Patient Registration form of Anil Kumar, Consent letter for put the injection, Discharge summary, Discharge Bill issued by Mangala Hospital, Hassan, 13 Marriage Photographs and Compact Disc. Having reference to the respective pleadings, the proposed documents are prima-facie found to be relevant for the adjudication of the case on hand. No doubt, the present applications have been filed at the stage of cross-examination of DW-1, but in consideration of the facts and circumstances of the case on hand, the applications on hand deserves to be allowed. No doubt, the production of application schedule documents are subject to relevancy, admissibility and proof. The defendants will get opportunity to dispute those documents and their relevance to the case on hand and if no permission is granted, the defendants will be put into irreparable loss and injury, which cannot be



compensated in terms of money. The delay cause may be compensated by imposing costs. **Accordingly, the point under consideration is answered in the affirmative.**

8. **Point No.2:** In view of the above findings on point No.1, the following;

ORDER

I.A.No.7, 8 and 11 filed by the applicant / plaintiff, under Order 18 Rule 17 R/w Sec.151 of CPC, Sec.151 of CPC and U/O VII Rule 14(3) R/w Sec.151 of CPC are allowed, subject to payment of cost of Rs.500/-.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 28th day of June, 2025)

Sd/-

(IRFAN)

Senior Civil Judge,
Kadur.