

KACM200001062023



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 5th day of February – 2026.

O.S.No.29/2023

Plaintiff: : Sri. Thammayyappa.
[By: Sri. C.G.R., Advocate]

V/s

Defendants: : Sri. Nagappa & others.
& another.

[Defendants No.1 and 2 by: Sri. H.C.M., Advocate]

[Defendant No.3 by: Sri. M.O.J. Advocate]

[Defendant No.4 by Assistant Government Pleader]



RANK OF THE PARTIES ON I.A.NO.7 to 10.

Applicant/
3rd defendant : Sri. Rajappa @ Nagaraju.

V/s

Opponent/
Plaintiff : Sri. Thammayyappa.

i	<i>Provision under which the application is filed</i>	<i>IA No.7 – U/ S 151 of CPC.</i> <i>IA No.8 – U/O XVIII Rule 17 R/w Sec. 151 of CPC.</i> <i>IA No.9 – U/O VII Rule 14(3) R/w Sec.151 of CPC.</i> <i>IA No.10 – U/O VIII Rule I(A) R/w Sec.151 of CPC.</i>
ii	<i>Relief sought for</i>	<i>Reopen the stage by recalling DW-1 and permit him to mark the documents in evidence by condoning the delay.</i>
iii	<i>The date on which the application is filed</i>	<i>IA No.7 to 9 on 25.09.2025.</i> <i>IA No.10 on 10.10.2025.</i>
iv	<i>Number of the applications</i>	<i>7 to 10.</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>Objections to IA No.7 to 9 filed on 10.10.2025.</i> <i>Objection to IA No.10 not filed.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>05.02.2026.</i>



When the case is posted for judgment, the 3rd defendant has filed these applications.

ORDERS ON I.A.7 to 10.

IA No.7 to 10 are filed by the 3rd defendant, U/ S 151 of CPC. U/O XVIII Rule 17 R/w Sec. 151 of CPC, U/O VII Rule 14(3) R/w Sec.151 of CPC and U/O VIII Rule I(A) R/w Sec.151 of CPC seeking to re-open the stage by recalling DW-1 for further evidence and also permit him to mark the documents in evidence by condoning the delay, in the interest of justice and equity.

2. These applications are supported by separate affidavits filed by the 3rd defendant. The gist of the applications averments are that he sworn to affidavit for himself and also on behalf of other defendants. Recently, he has obtained the certified copy of the mutation extract from the revenue authorities and said document is very much necessary to prove their contention and to throw light on the true facts of the case. The marking of the said document and to adduce further evidence on the said document is also very



much necessary. Hence, it is just and necessary to re-open the stage by recalling DW-1 for further evidence and also permit him to mark the said documents in evidence by condoning the delay. Accordingly, sought to allow these applications.

3. The plaintiff resisted the IA No.7 to 9 by contending that the defendants have sworn to false affidavit by suppressing the material facts and by creating the false affidavit in order to delay and to drag on the proceedings. The said case is posted for judgment, after giving sufficient opportunity to the defendants to produce the documents if any and to adduce further evidence, but the defendants have not come forward to produce any documents and to adduce further documents. Now the case is posted for arguments after completion of oral and documentary evidence, at this stage, such applications are not maintainable and same are liable to be rejected. The contents of the affidavits are all false and created by the defendants by misusing the process of law. The documents sought to be produced are noway concerned



to the said suit. Accordingly, sought to dismiss the applications.

4. Heard both side. Perused the case records.

5. The following points that arise for consideration are;

1. Whether the 3rd defendant has made out grounds to reopen the case to recall DW-1 and also to permit him to produced enlisted document by condoning the delay?

2. What order?

6. Answers to the above points are as under;

Point No.1 : In the Affirmative;

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

REASONS

7. **Point No.1 :-** The present suit is filed for the relief of declaration and partition. These applications have been filed by the 3rd defendant seeking to reopen the stage by recalling him in order to



produce the application schedule document i.e., mutation order and RTC extract pertaining to the disputed properties in order to establish his contentions by contending that he has recently found those documents and the said documents are necessary to prove his case. It is the objections of the plaintiff that the present applications are belated one and at this stage the said applications are not maintainable. On a meticulous reference to the respective pleadings and issues, it is apparent that the documents sought to be produced along with these IAs are prima-faice found to be relevant. Whether those documents are admissible in evidence or not is subject to its proof and relevancy. NO doubt, these applications are filed when the case was reserved for judgment, but nevertheless this court being the trial court shall provide an opportunity to the 3rd defendant to produce the enlisted documents. Of-course, the delay caused can be compensated in terms of money. Accordingly, **the point No.1 under consideration is answered in the Affirmative.**



8. **Point No.2** :- In view of the discussion in the foregoing point, the following;

ORDER

I.A.No.7 to 10 filed by the 3rd defendant, U/ S 151 of CPC. U/O XVIII Rule 17 R/w Sec.151 of CPC, U/O VII Rule 14(3) R/w Sec.151 of CPC and U/O VIII Rule I(A) R/w Sec.151 of CPC are allowed with costs of Rs.2,000/-.

Stage is reopened.

DW-1 is recalled and permitted to produce the documents produced along with IAs.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 5th day of February, 2026)

Sd/-

(IRFAN)
Senior Civil Judge,
Kadur.