

ORDERS ON IA.NO.XIV

The present application is filed at the stage of framing of issues. The defendants have filed this application U/O 6 Rule 17 of CPC seeking permission to amend the counter claim by inserting the schedule.

2) In support of the present application, the defendant No.2 has filed his affidavit wherein he has contended that while drafting the counter claim, schedule property could not be mentioned due to oversight and the said mistake is not an intentional one. The amendment is very much necessary in this case. On these averments, the defendants have sought for allowing the application.

3) Learned counsel for plaintiff who has filed his statement of objections to the present application, has contended that the present application is not at all maintainable. This application is filed only to delay the proceedings and to drag the suit. The proposed amendment will change the nature of counter claim and also the cause of action. On these grounds the plaintiff has sought for rejection of the application.

4) Heard learned counsels for both side and also perused the materials available on record.

5) Admittedly, the present application is filed during the stage of framing of issues by which the defendants are seeking permission for amendment of counter claim by inserting counter claim schedule property. On perusal of counter claim, though the defendants have pleaded with respect to the property stating to be described under the counter claim schedule and relief of permanent injunction is also sought for with respect to the property belonging to the defendants. But the schedule is not mentioned to the counter claim. When there is a prayer with respect to the property, the description of such property would play vital role in adjudicating the controversy between the parties. Herein this case, the defendants are seeking for insertion of description of counter claim property under the schedule. Therefore, the proposed amendment is very much necessary, the same will not prejudice the case of other side and also does not change the nature of suit. Hence, the following:

ORDER

I.A.No.XIV filed by the defendants under Order VI Rule 17 of CPC is hereby allowed.

The defendants are permitted to amend the counter claim as sought for in I.A.No.XIV.

(VISHWANATH.A)

**ADDL. CIVIL JUDGE & JMFC.,
MUDIGERE.**

**ORDERS ON IA NO.XV FILED BY THE
DEFENDANTS UNDER ORDER VIII RULE 1A(3)
R/W SEC.151 OF CPC**

The present application is filed by the defendants when the matter is set out for framing of issues. The present application is filed under Order VIII rule 1A(3) of CPC, seeking leave of this Court to produce additional documents i.e., letter dtd: 27.12.2023 and sketch.

2. It is the contention of the defendants that the documents which are sought for production is very necessary in proof of their case. If the present application is not allowed, they will be put to irreparable loss and hardship. On these ground, the defendants seek for allowing the application.

3. On the other hand, the plaintiff has filed his statement of objections to the present application contending that the present application is belated one filed to drag the proceedings. No valid reasons and grounds are made in support of the present application and as such the same requires to be rejected.

4. Heard both side and perused the materials on record.

5. This is the suit filed seeking decree of permanent injunction with respect to the suit schedule property. The defendant No.2 has also maintained counter claim seeking the relief of permanent injunction with respect to the counter claim schedule property. The present application is filed by the defendants when the suit is at the stage of framing of issues. It is settled principle of law that mere production of documents by itself is not proof of the same but it has to be proved in accordance with law.

6. It is relevant here to refer the recent decision of Hon'ble Apex Court in the case of **Levaku Pedda Reddamma & Ors. V/s Gottumukkala Venkata Subbamma & Anr., in Civil appeal No.4096/2022 DD: 17.05.2022** wherein it has been held that denying the party in a civil matter to produce additional documents, even if there is considerable delay, results in denial of justice.

7. Thus, keeping in view the settled position of law and the decision referred supra in the case of Levaku Pedda Reddamma, this Court deems it fit to allow the present application. Hence the following:

ORDER

I.A. No.XV filed by the defendants under Order VIII rule 1A(3) of CPC is hereby allowed.

Defendants are permitted to produce the document sought for in the present application.

For carrying out amendment and to file amended counter claim by: 11.03.2023.

(VISHWANATH.A)
ADDL. CIVIL JUDGE & JMFC.,
MUDIGERE.