

**ORDERS ON I.A.NO.V FILED BY THE  
DEFENDANT U/O VIII RULE 1A(3) OF CPC**

I.A.No.V filed by defendant U/o VIII rule 1A(3) of CPC to permit him to produce the documents by condoning the delay.

2. On the other hand, the plaintiff filed objection to IA No.V and prays to dismiss the application.

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

4. The following points arises for my consideration.

1) Whether the defendant had made out grounds to allow IA No.V?

2) What order?

5. My findings on the above points are as follows:

Point No. 1: In the Affirmative

Point No. 2: As for the following:

## REASONS

**6. Point No. 1:** IA No. V filed by defendant to grant permission to produce the documents by condoning the delay. In the affidavit annexed to the application defendant stated that, the documents are misplaced in his house and he traced out the documents recently. In order to prosecute the suit the said documents are very much necessary. In case the court does not allow the application defendant will be put to hardship, loss and inconvenience. Hence, the defendant prayed to allow the application.

7. On the other hand, the plaintiff filed objection to the IA No.V. In the objection plaintiff contended that the application filed by the defendant is not maintainable either in law or on facts and circumstances of the subject matter of the suit. The application is filed on a highly belated stage. No reasonable grounds are made out in support of the I.A. in the affidavit. Plaintiff further stated that the reason stated in the affidavit are created for the purpose of filing the application to drag on the proceedings to

delay the justice and to harass the plaintiff. The documents are not relevant to the suit. Hence the plaintiff prays to dismiss the application.

8. On perusal of the records it reveals that, plaintiff has filed the suit for declaration that the plaintiff is absolute owner of the schedule property and permanent prohibitory injunction as against the defendant. The present application for production of documents is filed by defendant, when the matter is posted for defendant evidence. It is the principle that adequate opportunity should be given to the parties to prove their case in the trial court itself. ***The Hon'ble Supreme Court in Levaku Pedda Reddamma & Ors. V/s Gottumukkala Venkata Subbamma & Anr.*** In Civil appeal No. 4096/2022, dated 17/05/2022 held as follows:

*“The defendant Nos.2 to 5 are in appeal aggrieved against the order passed by the High Court affirming the order passed by the trial Court refusing to permit the appellant to produce additional documents in terms of Order VIII Rule 1 of the Code of Civil Procedure, 1908.*

*We find that the trial Court as well as the High Court have gravely erred in law in not permitting the defendants to produce documents, the relevance of which can be examined by the trial Court on the basis of the evidence to be led, but to Signature Not Verified Digitally signed by SWETA BALODI Date: 2022.05.21 deprive a party to the suit not to file documents even if there 10:38:23 IST Reason: is some delay will lead to denial of justice. It is well settled that rules of procedure are hand-maid of justice and, therefore, even if there is some delay, the trial Court should have imposed some costs rather than to decline the production of the documents itself.*

*Consequently, the appeal is allowed. The orders passed by the trial Court and the High Court are set aside. The appellants – defendant Nos.2 to 5 are permitted to file the documents and to prove the same in accordance with law.”*

9. The principle laid down in the above judgment is aptly applicable to the case on hand. The Hon'ble Supreme Court of India held that to deprive a party to the suit not to file document even if there is some delay will lead to denial of justice. If the IA No.V is allowed

no hardship will be caused to the plaintiff. The plaintiff has every right to cross-examine the witness on the said documents produced by defendant. Therefore, to avoid multiplicity of proceedings I inclined to allow the application filed by defendant. The inconvenience caused to the plaintiff can be compensated by imposing cost on defendant for late production of documents. In view of my above discussion I answer point No.1 in the Affirmative.

10. **Point No. 2:** In view of my findings on point No.1 I proceed to pass the following:

**ORDER**

IA No.V filed by defendant U/o VIII rule 1A(3) of CPC is hereby allowed on costs of Rs.200/-.

The document annexed to the IA No.V is taken on record. Case posted for defendant evidence.

Call on 24/08/2024.

(JAYAPRAKASH V.)  
SENIOR CIVIL JUDGE AND JMFC.  
MUDIGERE.