

ORDERS ON I.A.NO.XV FILED BY THE
PLAINTIFF U/O 7 RULE 14(3) R/W 151
OF CPC

I.A.No.XV filed by the plaintiff U/o VII rule 14(3) of CPC to condone the delay in producing the list of documents.

2. On the other hand, the defendants filed objection to IA No. XV 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 plaintiff has made out grounds to allow IA No.XV?

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. XV filed by the plaintiff for permit the plaintiff to produce the documents by condoning the delay. In the affidavit annexed to the application the plaintiff stated that he has filed the suit for relief of rectification of northern boundary in the registered sale deed and for the relief of possession and permanent injunction.

7. Further plaintiff submit that he recently obtained certificate copy of order of Hon'ble Supreme Court dated 07/04/2017 and as such he could not produce document on earlier occasion. The production of document is very much necessary to prove his case. Plaintiff stated he will be put to irreparable loss and hardship if the application is not allowed. Hence, the plaintiff prayed to allow the application.

8. On the other hand, the defendants filed objection to the IA No.XV. In the objection the defendant contended that the application filed by the plaintiff is not maintainable either in law or on facts. The application is filed at an highly belated stage as it has been filed after the commencement of trial and too when the plaintiff's evidence has commenced and made considerable head way. When plaintiff has instituted the suit he is required to produce all

the documentary evidence in his possession or power upon which he intend to rely in support of his case on the said day of filing of the suit and fulfill the mandatory requirement of O.6 R-9 of Code of Civil procedure, 1908. When the plaintiff has failed to comply with the mandatory requirements of Order 7 Rule 14(1) and (2) of the Code of Civil procedure, 1908, he cannot take shelter under or reap the benefit of Sub Rule-3 of Rule 14 of order 7 of the Code of Civil procedure, 1908. It is to be remembered that the provision of law permitting the late production of the documents has been removed from the statute. As per the amendment brought to CPC. The application filed by the plaintiff not maintainable and do not survive for consideration. If the application is allowed it would materially cause serious prejudice to the right of the defendant No.3. The apprehension of the defendant No.3 is that in case the application is allowed, the plaintiff will tried to infuse, incorporate and introduce new story which has not been spelled out in the plaint. The plaintiff has failed to file list of documents in requirement of rule 7 (6) R/w rule 70(1) of Karnataka Civil Rules of Practice. The plaintiff has failed to make not of the condition and appearance of the

documents in the list produced by him to the Court along with I.A. No. 15 in requirement of R.73 of Karnataka Civil Rules of Practice 1967. Hence, the defendant No.3 prays to reject the application with the exemplary costs.

9. On perusal of the records it reveals that, plaintiff has filed the suit for rectification of northern boundary as 2 ನೇ ಪಾರ್ಶ್ವದ ಗಡಿ ಮತ್ತು ಬಿ. ಹೊಸಹಳ್ಳಿ ಗ್ರಾಮದ ಗಡಿ and southern boundary as ಕೂಡಹಳ್ಳಿ ಗ್ರಾಮದ ಗಡಿ in the registered sale bearing document No. MGE-1-01408-2015-16 dated 16-10-2015. for possession of plaint 'B', 'C' and 'D' schedule properties and for permanent injunction. When the matter is posted for examination of PW-1, the plaintiff came up with present application for production of documents. It is the principle that widest opportunity should be given to the parties to prove their case in the trial court itself. If the IA No. XV is allowed no hardship will be caused to the defendants. The defendants have every right to cross-examine the witness on the said documents produced by the plaintiff. Therefore, to avoid multiplicity of proceedings I inclined to allow the application filed by the plaintiff. 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. XV filed by the plaintiff U/o VII rule 14(3) is hereby allowed on costs of Rs.100/-.

The document annexed to the IA No. XV is taken on record. Case posted for chief examination of PW-1.

Call on : 09/03/2023

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