

Sri. MVJ advocate filed objection to I.A.No.5 and 6. Heard. Case pass over for orders.

ORDERS ON I.A.NO.V & VI FILED BY THE PLAINTIFF U/O VII RULE 14(3) OF CPC

I.A.No.V & VI filed by plaintiff U/O.VII Rule 14(3) of CPC to permit the plaintiff to produce the documents by condoning the delay.

2. On the other hand, the defendant filed objection to I.A.No.V & VI 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.V & VI ?

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: I.A.No.V & VI filed by plaintiff to grant permission to produce the documents by condoning the delay. In the memorandum of facts annexed to the application plaintiff stated that, he has produced the documents which are very much necessary relevant to prove the case. If the application is not allowed plaintiff will be put be hardship, loss and inconvenience. On the other hand if the application is allowed no hardship will be caused to the defendant. Hence, the plaintiff prayed to allow the application.

7. On the other hand, the defendant filed objection to the IA No.V and VI. In the objection defendant contended that the objection the defendant stated that the documents now sought to be produced by the plaintiff are not genuine and the same are concocted and got up documents. The plaintiff has not made out proper reason to allow the application. The plaintiffs have filed the present application only with the intention to drag the proceedings and to cause wrongful loss to the defendants. Hence defendant

stated that the documents are liable to be rejected. The reasons stated in the application are imaginary. The reasons stated in the application are not sufficient reasons to allow the present application for production of the documents. Hence defendant prays to reject the application.

8. On perusal of the records it reveals that, plaintiff has filed the suit for partition and separate possession of plaintiff 1/4th share in the suit schedule property. When the matter is posted for plaintiff evidence, the present application is filed for production of documents by the plaintiff. 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. If the IA No.V and VI 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 plaintiff. Therefore, to avoid multiplicity of proceedings I

inclined to allow the application filed by 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.V and VI filed by plaintiff U/o VII Rule 14(3) of CPC is hereby allowed on costs of Rs.200/- each.

The document annexed to the IA No.V and VI is taken on record.

Case posted for plaintiff evidence.
Call on 13.12.2024.

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