O.S. 5/2023.

ORDERS ON IA.NO.IX

1. I.A.No.IX has been filed by the Applicant/ Defendant No.1 under Order VIII Rule 1(3) r/w Section 151 of C.P.C seeking leave of the Court for production of documents. A separate list containing six documents is also filed along with the application.

2. In the affidavit appended to the application, it is stated that the documents sought to be produced could not be produced earlier due to unavoidable circumstances; the delay in production of the documents are unintentional; the documents are very much relevant for proper adjudication of the suit; rejection of the application would lead to great hardship, irreparable loss and injury to the Defendants and that it is necessary to grant leave for production of documents. Hence, the prayer is to allow the application.

3. The application is resisted by the Plaintiff by filing objections with the contention that no proper reasons are assigned to allow the application; the documents sought to be produced are irrelevant and not at all necessary for proper adjudication of this suit; there are no bonafides in filing the application. Hence, the prayer for dismissal of the application with costs.

4. Learned counsels on both sides have made their respective submissions.

5. Having heard and after perusal of materials placed on record, the sole point that would arise for my consideration is as under;

"Whether the Applicant/ Defendant No.1 has made out sufficient grounds to allow the application in I.A.No.IX?"

6. My answer to it is in the '**Affirmative**' for the following reasons:-

7. The suit is one for the relief of rectification of instrument. This application is filed at the stage when the suit was set down for evidence on the side of Defendants.

8. It is well settled that, the Court while entertaining the application such as this, is to only look into the relevance of the documents sought to be produced. The documents however remote it may appear to the facts of the case, may have to be allowed to be brought on record. There cannot be scathing inquiry into the relevancy of the documents at this stage as the same is a subject for appreciation of the evidence at the proper time where the weightage of such evidence can be looked into. Of course, the documents, if found to be completely irrelevant to the facts of the case, can under no circumstances be allowed to clutter the court records and must be refused at the threshold, the power towards which can be traced to Section 5 of the Evidence Act nad Order XIII Rule 3 of C.P.C. However, the documents sought to be produced now by the Applicant/ Defendant No.1, in my considered opinion appear to be relevant to the facts of the case. Hence, the application deserves to be allowed. Even though the Plaintiff has raised serious objections regarding the relevancy of the documents sought to be produced, the application cannot be rejected on that sole ground alone. Ofcourse, the Plaintiff would be within her right to raise dispute about the said documents during cross-examination. There is some admittedly some delay in production of the documents which can very well be compensated in terms of costs. With the aforesaid discussions, I proceed to pass the following;

ORDER

I.A.No.IX filed by the Applicant/ Defendant No.1 under Order VIII Rule 1(3) r/w Section 151 of C.P.C is hereby allowed on cost of Rs.200/-.

The documents produced along with I.A.No.IX being six in number are taken on record.

Sd/-
C.J & J.M.F.C: Sringeri