

IN THE COURT OF THE ADDL. CIVIL JUDGE AND
J.M.F.C., AT TARIKERE

Present : Sri RAMAMURTHY N. B.A., LL.B.,
Addl. Civil Judge & JMFC. Tarikere.

O.S.No.250/2015
Dated:12th June 2019.

Plaintiffs : Nagraj and another
(Reptd. by : Sri T.D.K. Advocate)
-Vs-
Defendant : Shankar
(Reptd. by : Sri H.V.M. Advocate)

I.A.No.8

Applicant in I.A/: Shankar
Defendant

-Vs-

Opponent in IA: Nagraj and another
Plaintiffs

ORDERS ON IA.NO-8

The defendant has filed I.A.No.8 U/Or.18 Rule 5(2) R/W.151 of CPC seeking direction of this court to Assistant Commissioner Tarikere to produce the documents before the court.

2. The defendant has stated in affidavit that, he and plaintiffs are resided in one family and there is a ration card with regard to family members of plaintiffs and himself. The said ration card and his election identity card

received by the Land Acquisition Officer under Wild Life Protection scheme on 03/12/1997 during mahazar, hence he has not produced true copy of the said ration card and I.D. card, as the documents are not in his possession. Therefore, earlier he has filed the xerox copy of the said documents. Hence, for the purpose of producing the original documents which are received under LAQ19/1997-98, it is necessary to give the direction to the Assistant Commissioner, Tarikere to produce the above said documents before the court.

3. On other hand, the application resisted by the plaintiffs, stating that, this suit is filed by the plaintiffs for permanent injunction. The respective parties have to prove the possession over the suit schedule property is the main ingredients. That aspect has to prove before this court by the parties from their documents and evidence.

4. The proposed documents are not a proper documents to prove the defendant case. That documents are not shows, possession of the parties over the suit schedule property. Hence, prayed for dismiss the application.

5. Heard both side and perused the materials in hand.

6. The following points are arise for consideration:-

1. Whether the defendant has made out sufficient ground to allow the application?

2. What order?

7. Findings on the above points are as follows:-

Point No.1 : In the negative

Point No.2 : As per the order for the following:

REASONS

8. **Points No.1** : The present suit is for permanent injunction filed by the plaintiffs against defendant. The present application is the defendant sought direction of this court to produce the documents which are received under LAQ19/1997-98. The defendant has stated in his application that, his ration card and I.D. Card is received during mahazar under proceedings of LAQ19/1997-98. Now he want to produce the same before the court. Therefore, he sought order of this court to direction the

Assistant Commissioner of Tarikere to produce the said documents.

9. On perusal of materials in the case, it is appeared that, the suit for permanent injunction, in a suit for permanent injunction, the principle of law is that, the person who sought relief of permanent injunction, he has to prove his possession over the suit schedule property and interference of defendant.

10. The proposed documents of the defendant are public documents, the defendant can obtain the public documents by moving the application to the concerned office and there is an opportunity to the defendant to obtain the certified copies of the same by the concerned office and produce the same before the court. Therefore, opinion of this court is that, the issuance of direction to the Assistant Commissioner Tarikere to produce the above said documents is not proper. Hence, the application filed by the defendant is liable to be dismissed. Accordingly, this court answered point No.1 in the negative.

11. Point No.2:- For the above reasons and answer given to the point No.1, proceed to pass the following:-

ORDER

I.A.No.8 filed by the defendant is
hereby dismissed.

(Dictated to the stenographer, transcribed by her, corrected
by me and then pronounced in the open Court on this the day of
12th June 2019.)

Sd/-

**(RAMAMURTHY N.)
ADDL.CIVIL JUDGE & J.M.F.C.,
TARIKERE.**