

## **ORDERS ON IA No.V**

I.A.No.V has filed by the plaintiff U/o.VII Rule XIV of CPC seeking permission to produce the list of document as mentioned in the annexed list in the ends of justice.

2. The reasons assigned by the plaintiff in the affidavit annexed to the application are that, the documents sought to be produced are obtained recently and in order to prove the case of the plaintiff, the above said document is very much essential. The non-production of documents on the earlier occasion is unintentional and for a bona-fide reason. Hence, prayed to allow the application.

3. Per contra, the defendants have filed objection contending that the application is neither maintainable at law and denied all the averments made by the plaintiff and submitted that the application is filed only to drag the proceedings and she has not filed the document at the earlier occasion. If the application is rejected no prejudice or hardship is caused to the plaintiff. On the other hand, the great injustice will be cause to the defendants, if the application is allowed. Hence, prayed to reject the application.

4. Heard arguments from both counsel.

5. Perused the case materials produced before the court.

6. After going through the application with affidavit and objection statement, points arise for my consideration are ;

1. Whether the application filed by the plaintiff deserve to be allowed ?

2. What order?

7. My answer to the above points are as under:

Point No.1: In the Affirmative

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

### **REASONS**

8. **Point No.1:** The present suit is one for the relief of partition and separate possession and other consequential relief of permanent injunction. The plaintiff through this application has sought to be produce some of the document which is family tree certificate.

9. At this stage, only the admissibility of the documents should be considered and not its

relevancy. As per section 101 and 103 of the Indian Evidence Act 'The burden is casted on the plaintiff to prove her case 'Admittedly the matter has not reached its finality. The cardinal principle of law states that, rights of the parties would not be defeated by mere technicalities of law. Anyhow after receiving the document in evidence, the defendants will be having every opportunity to test the credibility of the witness in the litmus test of cross-examination. There will be no prejudice would be caused to the defendants if the application is allowed. On the other hand, the plaintiff will be deceived with an opportunity if the application is rejected. Of course there is a delay in production of document and said delay itself is not a ground to reject the application. In the touchstone of the aforesaid reasons, 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**

The IA No.V filed by the plaintiff under Order 7 Rule 14 (3) R/w Section 151 of C.P.C. is hereby allowed subject to payment of costs of Rs.100/-.

Call on for hearing on  
preliminary issues R/by  
29.06.2024.

**Pr1. Civil judge & JMFC.,  
Honnali**