

ORDERS ON IA No.VII

The learned Counsel for the plaintiff has filed an application Under Order VII Rule 14 of CPC., seeking permission to produce the list of documents 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 is that, the documents are sought to be

produced and in order to prove the suit of the plaintiff, the above said documents are very much essential. The non-production of documents on the earlier occasion is unintentional and for a bona-fide reason. Now the case is posted for further cross of PW1, if the application is not allowed she will be put to untold hardship and if application is allowed no prejudice would be caused to other side. Hence, prayed to allow the application.

3. Per contra, the defendant No.1 has filed objection wherein denied the reasons stated in the affidavit filed in support of the accompanying application and in addition to denial contend that, the application is neither maintainable in law and contend that the application is filed only to drag the proceeding and now the suit is stands for further cross of PW1, at that time the plaintiff has filed the present application. If the application is rejected no prejudice or hardship is caused to the plaintiff. On the other hand, the great injustice will be caused to the defendants, if the application is allowed. Hence, prayed to reject the application.

4. Heard on both sides.

5. Perused the materials produced before the Court.

6. After going through the application with affidavits and objection statement, points arise for determination of this Court:

1. Whether the application is filed by the plaintiff is deserved to be allowed?
2. What order?

7. This Court has 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. The plaintiff through this application has sought to be produced documents.

9. At this stage, only the admissibility of the documents should be considered and not its relevancy. In the objection the defendant No.1 contend that, when the matter was posted for further cross of PW1 at that time the plaintiff has produced this documents only for drag the matter and there is a delay in production of documents. As per Section 101 and 103 of the Indian Evidence Act, the burden

is casted on the plaintiff to prove his suit 'Admittedly the matter has not been 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 receive this 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 defendant 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 documents and said delay itself is not a ground to reject the application. Under such circumstance, this Court has answered the Point No.1 in the Affirmative.

10. **Point No.2**: In view of findings on Point No.1, this Court has proceed to pass the following:

ORDER

The IA No.VII filed by the plaintiff
Under Order 7 Rule 14 R/w Section
151 of CPC is hereby allowed subject to
payment of costs of Rs.300/-.

Call on for further cross of PW1

by:

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

