

Order on I.A. No. 3

The Plaintiff filed IA-3 u/O.11 R.1(5) r/w S.151 of CPC praying to receive the documents mentioned in IA No.3 after condoning the delay in filing the same.

In the memorandum of facts, it is stated that the said documents are misplaced at the time of filing of the present suit, because the same documents are produced before the PLA Petition No. 1217/2018 by the plaintiff. There is no any dishonest intention behind delay in the production of the original documents and the said documents are recently procured by the plaintiff. The production of the said documents are very much necessary to prove the case of the plaintiff. The delay in production of the same is neither intentional nor deliberate. Untold hardship will be caused to the plaintiff otherwise. Hence, prayed to allow IA No.3.

The defendants have filed objection on I.A.No. 3, it is stated that the IA is false and

frivolous and is filed with intention to drag the proceedings. The alleged original of invoices sought to be produced are indeed copies with no signature of either parties. Thus, the same goes to the root of genuineness of the document sought to be produced. The suit being filed under a special act needs to be dealt according to the provisions laid down thereunder. Hence, prays to dismiss the I.A.No. 3.

Heard.

upon perusal it is noted that, document No.1 – certificate dated 28.08.2001, document No.2- certificate dated 30.08.2003, document No.3 – certificate dated 10.01.2005, document No. 4- Notice along with postal receipts and postal acknowledgment and 5 bill/invoices dated 26.08.2016.

As delay has been explained and the said documents were summoned upon allowing IA No.2 filed by the Plaintiff as they were found necessary for complete adjudication, contention of the defendant holds no substance. Further, the defendant would not be prejudiced in any way as he has an opportunity to cross-examine the witness as to the authenticity of these documents. Accordingly, I proceed to pass the following:

Order

IA-3 filed u/O.11 R.1(5) r/w S.151 of CPC
by the plaintiff is hereby allowed.

For further chief of PW1 by 22.01.2024.

IV ADJ, Mangaluru.