

ORDERS ON I.A.NO.XIX

The defendants No.1 and 2 have filed this I.A.No.XIX under Order VIII rule 1(A) of CPC along with documents with submission to condone the delay in producing the documents and to receive the same.

2. The defendant No.2 has sworn to an affidavit wherein he has stated that he had produced documents along with written statement and at initial stage some documents were produced which are photo copies and some other documents were mixed up and for that reason earlier stage same could not be produced and regarding other documents they are obtained very recently and said documents are material to prove their case and for that reason submits to allow the I.A.No.XIX.

3. On the other hand the plaintiffs have filed common objection submitting that the defendants have not assigned proper reason for production of documents at belated stage and have denied other affidavit averments as false and have submitted to dismiss I.A.No.XIX.

4. Heard and perused.

5. The plaintiffs have filed this suit for relief of partition and separate possession and same is contested by defendants by filing written statement and now case is posted for defence evidence and at this stage the defendants have filed I.A.No. XIX along with registered partition deed, Will and other documents, wherein some documents appears to be recently

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obtained and though some documents could have been produced at earlier stage and not produced, but it is pertinent to note that the court has to allow the application with respect to documents obtained recently and for that reason the court cannot reject application in part with respect to documents which could be produced at earlier stage and not produced and apart from that the burden to prove registered Will is on the defendants and for that reason allowing I.A.No. XIX will not cause hardship or prejudice to the plaintiffs and accordingly I proceed to pass the following:

ORDER

I.A.No.XIX filed by the defendants No.1 and 2 under Order VIII rule 1(A) of CPC is hereby allowed.

The delay in producing the documents is hereby condoned and documents produced along with I.A.No.XIX are taken on record.

No order as to costs.

**Senior Civil Judge & JMFC.,
Bantwal, D.K.**