

ORDERS ON I.A. No. VI

The applicant/defendant No.8 has filed I.A. No.VI Under Section 151 R/w Section 148A of CPC praying to receive the Written statement of defendant No.8.

In the affidavit it is stated that, the suit is one for redemption of mortgage filed by the plaintiff. At the time of filing the suit they were not made as party to the suit and they are impleaded in the year 2017. After receiving impleading application they engaged their counsel and he told them after impleading their name in the suit they will again receive suit summons but son far they have not received any suit summons. Since all the affairs of the

suit property was being looked after by their mother and accordingly after correcting the name of their mother, she has filed her written statement. But unfortunately before receiving her statement on record she has died. However, even after the death of their mother they were not given opportunity to file their written statement even though they are her legal heirs. Hence, due to all these dilemmas they would not file their statement and since no proper opportunity was given to them they are now put into great loss and hardship. Still they are in possession of the property if the written statement is not received they will be put into untold hardship. Hence, prayed to allow the application.

The plaintiff has objected the same and submitted that, the application is not maintainable on law or on facts of the case. The defendants no. 7 to 12 are impleaded in the year 2017 and defendant no.7 they made an attempt to misuse the opportunity and filed memo to the court, adopting the written statement of the defendant no.7, but written statement of defendant no.7 was not received, hence, question of adopting the same does not arise, anyhow the memo filed by the defendants was rejected on 18.01.2022, but suppressing all those facts the present application is filed. The petitioner filed this application suppressing all the earlier proceedings with illegal and fraudulent intention and earlier order of this court is also not challenged by the defendants, hence, the present application is liable to be rejected with compensatory cost. This application is filed by the defendant no.8 colluding with other

defendants who are seeking time to lead evidence since long. Hence, prayed to reject the application.

Heard. Perused the records.

The plaintiff has filed the suit against the defendants for seeking direction to the defendants to execute a deed of redemption releasing the mortgage properties as per the terms of the mortgage dated 11.07.1962

It is the contention of the defendant no.8 that, all the affairs of the suit property was being looked after by their mother and she has filed her written statement. But unfortunately before receiving her statement on record she has died. However, even after the death of their mother they were not given opportunity to file their written statement and now the defendant no.8 intend to contest the suit by filing written statement. In so far as the delay is concern, that may be compensated by imposing cost on the defendant No.8. The reasons assigned in the affidavit are satisfactory. Every party must be given an opportunity to defend the suit. Hence, I proceed to pass the following:-

ORDER

I.A.No.VI filed by the defendant No.8
Under Section 151 R/w Section 148A of
CPC is hereby allowed on cost of Rs.500/-.

The written statement filed by the
defendant no.8 is hereby taken on record.

For Additional Issues:- 28.07.2022.

Bantwal D.K