

04.03.2026

ORDERS ON I.A. No.I

The counsel for the plaintiffs filed an I.A. No.I under Sec.151 of C.P.C., seeking to pass the Order dated:30.08.2024 on I.A. dated:30.06.2023 directing the defendant No.1 to 3 to maintain proper accounts of suit schedule No.1 property and produce the same whenever the Court directed to do so. That the time of 1 year has lapsed after the Order has been passed by the Court. Hence, it is important to produce the accounts of rent maintained by defendant No.1 to 3 to be produced to the Court as mesne profit is also prayed to the Court. Hence, prayed for allow the application.

2. In the annexed affidavit the plaintiff averred that the Court was pleased to pass the Order dated:30.08.2024 on I.A. dated:30.06.2023 directing the defendant No.1 to 3 to maintain proper accounts of suit schedule No.1 property and produce the same whenever the Court directed to do so. That the time of 1 year has lapsed after the Order has been passed by this Court. Hence, it is important to direct the defendant No.1 to 3 to produce the accounts of rent maintained

by defendant No.1 to 3 to be produced to the Court as mesne profit is also prayed to the Court. Hence, they prayed to pass appropriate Order directing the defendant No.1 to 3 to produce the account details of rental income earned fro suit item No.1 property in the ends of justice and equity.

3. On the other hand, the defendant No.1 filed objections to the said I.A. and contended that the application filed by the plaintiffs is wholly misconceived, untenable and not maintainable either in eye of law or on facts and same is liable to be dismissed at the threshold. The plaintiff has deliberately suppressed material facts and has presented an inaccurate picture before this Court only for the purpose of harassing this defendant and prolonging the proceedings. The defendant No.1 is of advanced age and is suffering from high blood pressure and diabetes. Due to her ill health, defendant No.1 is not involved in or aware of the day to day business affairs. The day to day management of the business is being looked after by defendant No.2 and 3, who have been duly maintaining the accounts of suit schedule item No.1 property in compliance with the directions of this Court. It is further

contended that the present application proceeds on an erroneous assumption that the mere lapse of one year automatically creates an obligation on the defendants to file accounts before this Court. Such an assumption is contrary to the order passed by this Court and is devoid of any legal basis. The plaintiff has failed to demonstrate any breach, non compliance or prejudice allegedly caused by the defendants, which is a mandatory requirement before seeking a direction for production of accounts. Further, no valid or cogent reasons have been stated in the accompanying affidavit to justify the production of account relating to rents. The plaintiff has neither shown any specific reason nor produced any material to justify the present request and hence the application is purely speculative, vexatious and filed with ulterior motives. Hence, prayed to dismiss the application.

4. *On careful perusal of the entire material available on record it is noticed to the Court that this is the suit for partition and separate possession against the defendants filed by the plaintiff. When the matter is in the stage of further cross of P.W.1 counsel for*

plaintiff filed the present application for above said relief.

5. Admittedly, it is not in dispute that earlier the plaintiff filed an application seeking deposit of rent before the Court. At the time the defendant No.1 to 3 objected the said application, thereafter considering the said submission of defendant No.1 this Court while passing order on the earlier I.A. imposed a specific condition directing them to maintain proper accounts of the rent received and the expenditure incurred and further directed them to produce the same as and when called for by the Court.

6. The present application is filed at the stage of further cross of P.W.1 seeking production of those very accounts. The learned counsel for the defendants opposed the application contending that the plaintiff has deliberately suppressed material facts and has presented an inaccurate picture before this Court only for the purpose of harassing this defendant and prolonging the proceedings. The defendant No.1 is of advanced age and is suffering from high blood pressure and diabetes. Due to her ill health, defendant No.1 is not involved in or aware of the day to day business affairs.

The day to day management of the business is being looked after by defendant No.2 and 3, who have been duly maintaining the accounts of suit schedule item No.1 property in compliance with the directions of this Court. It is further contended that the present application proceeds on an erroneous assumption that the mere lapse of one year automatically creates an obligation on the defendants to file accounts before this Court. Such an assumption is contrary to the order passed by this Court and is devoid of any legal basis. The plaintiff has failed to demonstrate any breach, non compliance or prejudice allegedly caused by the defendants, which is a mandatory requirement before seeking a direction for production of accounts. Further, no valid or cogent reasons have been stated in the accompanying affidavit to justify the production of account relating to rents. The plaintiff has neither shown any specific reason nor produced any material to justify the present request and hence the application is purely speculative, vexatious and filed with ulterior motives. The said contention cannot be accepted. The direction to maintain and produce accounts was not an

empty formality. It was a condition attached to the liberty granted to defendant No.1 to 3 instead of depositing the same rent amount before the Court. One such conditional liberty was granted, the defendants are bound to strictly comply with the said condition.

7. The present application is not in the nature of a fresh or independent request for discovery. It is only a request to enforce compliance with the earlier judicial direction. The Court retains ample power under Sec.30 of CPC and Order 11 of CPC to direct production of documents at any stage of the proceedings, if such documents are necessary for proper adjudication of the matter.

8. The accounts sought to be produced are admittedly in the custody and control of the defendant No.1 to 3. They are directly relevant to the question of receipt and utilization of the rent, which is a matter in controversy between the parties. Therefore, their production is essential for effective adjudication. Moreover, a party who has obtained benefit under a conditional order cannot avoid the corresponding obligation. Having availed liberty to maintaining accounts defendant No.1 to 3 cannot now

resile from the condition attached thereto. In view of the above discussion this Court is of the considered opinion that the application is maintainable and deserves to be allowed and I proceed to pass the following:-

ORDER

The I.A. No.1 filed under Sec.151 of CPC filed by the plaintiff is hereby allowed.

Resultantly, the defendant No.1 to 3 are hereby directed to produce the accounts maintained by them in respect of rent received and expenditure incurred as directed in the earlier order within 15 days from the date of this order.

Failure to comply with this direction shall entail appropriate consequences in accordance with law, including drawing of adverse inference.

No order as to costs.

For compliance and defendants evidence.

Call on 18.03.2026.

*I Addl. Sr. Civil Judge & JMFC.,
Hubballi.*