

Order on IA-5 filed U/o 7 R 14(a) of CPC

The present application is filed by the plaintiff seeking permission to produce the documents mentioned in the list after condoning the delay in production of the same. In the affidavit filed it has been contending that earlier the said documents could not be produced on account of non availability. It is contended that the delay in production of the document is unintentional and the same be condoned by allowing the present application.

To this application, objections have been filed contending that the application is not maintainable either in law or on facts. It is contended that the application is liable to be dismissed in limine. It is contended that this is a recovery suit for Rs.28,25,542/- and is based on bills and receipts for supply of copra. It is contended that at the time of filing the suit the plaintiff has not produced any documents to show the suit transaction. The documents now sought to be produced or created documents. The said documents have been created to match the claim. It is contended that the said documents are more than 80 in number and are not relevant to the present claim. According to the defendant they have not executed the said documents. Hence it is prayed that the application be dismissed as prayed for.

3. Heard arguments advanced by both sides.

4. The point that arises for my consideration is

1. Whether the plaintiff has made out sufficient grounds to allow the present application?

2. What order?

My answer to the above point in in the **affirmative** the following:

REASONS

5. In this case it is seen that the plaintiff has filed the present suit seeking recovery of Rs.28,25,542/- together the interest at the rate of 18% p.a. The defendant has denied the suit transaction. Hence it is clear that the burden of proving the suit transaction lies on the plaintiff. In this case it is seen that the issues are framed and the parties have entered trial the case is posted for further marking of documents on behalf of the plaintiffs. At this stage, the present IA came to be filed. The documents sought to be produced are APMC license, bill book extracts in respect of suit claim, Cess receipts, GST receipts, Bank statements and ledger statement for the year 2013 to 2021. No doubt there is a delay in filing the documents but the same cannot be a ground to dismiss the application. If the application is not allowed the plaintiff would be put to hardship as these documents are necessary for the plaintiff to prove his claim and entitlement to final relief. If the application is allowed no loss or hardship would be caused to the defendant as the defendant still gets to cross examine Pw.1 with regard to the genuineness of the said documents as on when the said documents are admitted and marked in evidence on behalf of Pw.1. Hence IA-5 is hereby allowed on cost of Rs.500/-

For further marking.

by. 26-05-2023.

(Anitha, G.)
Senior Civil Judge & JMFC.,
Arasikere.30-03-2023.