

ORDERS ON I.A.No.V TO VII

The plaintiffs have filed IA No.V to VII under Section 151 of CPC to the reopen the case to lead further chief examination, under Order XVIII Rule 17 of CPC to recall the PW1 to lead further chief examination and under Order VII Rule 14(3) of CPC seeking permission of the court for production of documents.

2. The counsel for the defendants has filed objection to the aforesaid applications.

3. Heard learned counsel for the plaintiffs and defendants.

4. After perusal of records of the case, following points would emerge for my consideration:

1) Whether the plaintiffs have made out grounds to reopen the stage, recall the PW1 and permit them to produce documents at this stage?

2) What order?

5. My answer to the above points are as under:

Point No.1: In the Affirmative.

Point No.2: As per final order for the following:

REASONS

6. POINT No.1: In the affidavits appended to the applications, it is stated that they have filed suit against the defendants for permanent injunction. It is contended that already their evidence is completed. At the time of evidence due to non-availability of documents now sought to be produced was unable to produce the said documents in the case. The documents are now available and therefore, it is very much necessary to produce the said documents in the case. Hence, plaintiffs pray to reopen the stage, recall the PW1 and permit them to produce documents.

7. Per contra, the counsel for the defendants filed objection to the aforesaid applications. In the objections, the defendants have denied the applications averments in material aspects. It is

contended that the suit is of the year 2014 brought by the plaintiffs against the defendants. The plaintiffs without leading the evidence properly are wasting precious time of the court. The Hon'ble court has given sufficient time to produce documents. But, the plaintiffs have not utilized the said opportunity. In the case already the plaintiffs side evidence are closed and when the case is set down for cross examination of DW1, the plaintiffs have come up with present applications. The plaintiffs have filed present applications only to give trouble to the defendants. The reasons given in the said applications are totally false and frivolous, and hence the defendants prays to reject the IA No.V to VII.

8. In view of rival contentions put forth by both the parties, now let me see whether the plaintiffs have made out grounds to allow the IA No.V to VII.

9. The order sheet maintained in the case it reveals that when the case is posted for cross examination of DW1, the plaintiffs have filed IA No.V to VII. The plaintiffs have filed the present suit against the defendants for the relief of permanent injunction in respect of suit schedule property. The plaintiffs have lead their evidence keeping in the mind of issues framed by the court. After closer of plaintiffs evidence, case is posted for defendants evidence. When the case is stands for cross examination of DW1, the plaintiffs have filed IA No.V to VII, to

reopen, recall the PW1 and production of documents. The plaintiffs have stated that reason for delay in producing the documents is due to non-availability of the documents now to sought to be produce was unable to produce at the time of evidence. As such the plaintiffs prays to permit them to produce the said documents. In the case on hand, the defendants contended that the suit schedule property is belongs to them. On the contrary, the plaintiffs contended that they are the absolute owners and in possession and enjoyment over the suit schedule property. In order to decide the dispute between the parties effectively, the documents produced by the plaintiffs are very much necessary. Further, in order to resolve the dispute between the parties it is just and necessary to permit the plaintiffs to produce the documents. However, there is some delay in producing the documents in time. Due to non-availability of documents, now sought to be produced was unable to produce the said documents in time. There is some delay in producing the documents. The said delay can be condoned by imposing costs. If the documents are permitted to be produced in the evidence, the defendants have also got an opportunity to cross examine the plaintiffs on the said documents. As such the plaintiffs have made out grounds to reopen, recall the PW1 and permit them to produce documents, hence ***point No.1 is answered in the Affirmative.***

10. Point No.2: For the foregoing reasons and discussions made supra, I proceed to pass the following:

ORDER

I.A.No.V to VII filed by the plaintiffs under Section 151 of CPC, under Order XVIII Rule 17 of CPC and under Order VII Rule 14(3) of CPC are hereby allowed on cost of Rs.700/-.

The stage is reopened, PW1 is recalled and plaintiffs are permitted to produce documents.

Call on for further chief examination of PW1
by

Civil Judge & JMFC, Belur.