

ORDER

The applicants/defendants have filed application under Order 16 Rule 1 and 2 R/w Sec.151 of CPC., by praying to permit them to lead further evidence through proposed additional witnesses.

2) The contention of defendants is that, the suit is filed for the relief of specific performance of contract in respect of suit property on the basis of nominal sale agreement. It is the defence of defendants that, they have not at all negotiated with the plaintiff for selling the valuable suit property and in the suit property also consisting of 2 floor of RCC farm house. Earlier they had given witness list for 2 witnesses. The plaintiff has not at all admitting existing of RCC house which has been constructed well within the suit property. Hence, to prove it the instant application is filed.

3) On the contrary the plaintiff has filed objection and prayed to dismiss the application by stating that, the said application is filed to drag on the matter.

4) Heard the arguments of counsel for plaintiff and defendants.

5) The points that arise for my consideration are :

***1. Whether the application is
entitled to be allowed ?***

2. What order?

6) My findings on the above points are as under:

Point No.1: In Affirmative

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

:-REASONS:-

7) **Point No.1:** The plaintiff has filed this suit against the defendant for seeking specific enforcement of contract.

8) The contention of plaintiff is that, based upon property i.e., agricultural property defendants entered into sale agreement with the plaintiff. But the contention of defendants is that, in that property one RCC house is situated. In order to prove this, the instant application is filed. I find that, even though the suit is filed for specific enforcement of contract, if suit will be decreed and the property which is stated in plaint schedule is to be delivered to plaintiff. But the contention of defendants is that, the plaint schedule is consisted of RCC house. In order to prove this and in order to give fair decision and in order to avoid ambiguity, it is just and necessary to allow the application. More over plaintiff would be given an opportunity to cross examine proposed witnesses. Hence, I answer **Point No.1 is in Affirmative.**

9) **Point No.2:** In view of the discussion made in answering Point No.1, I proceed to pass the following:

ORDER

***Application which is filed
under Order 16 Rule 1 and 2 R/w
Sec.151 of CPC., is hereby allowed.***

Defendants are permitted to lead their side further evidence through proposed additional witnesses.

Senior Civil Judge and JMFC
Channarayapatna