

**IN THE COURT OF THE ADDL. CIVIL JUDGE
& J.M.F.C
AT HOLENARASIPURA**

PRESENT : Sri.Arun Chougule.,
B.A. LL.B.(Hons.)
Addl. Civil Judge and J.M.F.C.,
HOLENARASIPURA

Dated this the 6th day of July, 2019

O.S.NO.341/2013

Plaintiff/s :- M.Giddegowda S/o Late Marigowda
(By Sri.R.D.R.,Advocate)

-V/s-

Defendant/s:- Javaramma W/o Thirumala Annaiah and others
(D1 and 2 by Sri.M.K.D
and D3 By Sri.R.P., Advocates)

:: In IA.No.XIV to XVI::

Applicant/Defendant No.1 and 2 :- Javaramma W/o Thirumala
Annaiah and another

-V/s-

Opponent/Plaintiff :- M.Giddegowda S/o Late Marigowda

ORDER ON IA.No.XIV to XVI FILED BY THE DEFENDANT

NOs.1 AND 2 U/O.18 RULE 17, ORDER 8 RULE 1-A(3) AND

SECTION 151 OF CPC

The present applications are filed by the applicants/defendant Nos.1 and 2 praying for reopening of the matter, permission to produce documents and recall of D.W.1 for further chief-examination.

2. Defendant No.2 has sworn to affidavits along with the applications stating that the plaintiff has filed the suit seeking the relief of declaration and permanent injunction and the matter is posted for final arguments. It is stated that the applicants are intending to produce photos and CD showing the boundary stones fixed by the plaintiff, therefore, it is stated that it is necessary to reopen the matter for further chief-examination of D.W.1 to get the said photos and CD marked on behalf of the defendants. It is stated that since the photos and CD were not available earlier, there is delay in producing the same. The applicants pray to permit them to produce the photos and CD by condoning the delay. Hence, the applicants pray to allow the applications.

3. The opponent/plaintiff filed common objections contending that the applications are not maintainable either on facts or in law that the averments made in the affidavit filed in support of the applications are false and the documents sought to be produce have no relevance to the subject matter of the suit. On these grounds, the plaintiff sought to dismiss the applications.

4. After hearing both the sides and perusing the materials on record, the following points arise for my consideration.

1:- Whether the applications deserve to be allowed?

2:- What order?

5. Having regard to the material placed on record and arguments heard, my findings to the above points are:

Point NO.1:- In the Negative

**Point NO.2:- As per final order,
for the following:**

REASONS

6. **Point No.1:-** The present suit is filed for the relief of declaration of title, mandatory and permanent injunction. Evidence of both the side is completed and the matter was posted to hear final arguments on 04.07.2018. Thereafter, the plaintiff filed I.A.No.VIII under Order 16 Rule 4 of CPC which came to be dismissed by order dated 23.10.2018 and the matter was again posted to hear final arguments on 27.10.2018. the plaintiff on 07.12.2018 filed another application under Order 6 Rule 17 of CPC which came to be allowed on 05.01.2019 and the matter was yet again posted to hear final arguments on 28.01.2019. On 28.02.2019, the plaintiff again filed I.A.No.X to XII under Order 18 Rule 17, Section 151 and Order 7 Rule 14 of CPC seeking reopen of the matter for further chief-examination of P.W.1. the said applications were allowed on cost of Rs.100/- each by an order dated 14.03.2019 and matter was posted to 21.03.2019 to hear final arguments. On 21.03.2019 the plaintiff again filed I.A.No.XIII under Order 6 Rule 17

of CPC which is pending consideration and on the same day the applicants/defendant Nos.1 and 2 filed the present applications under Order 18 Rule 17, 8 Rule 1A(3) and Section 151 of CPC seeking reopen of matter for further chief-examination of D.W.1.

The applicants state that they are intending to produce photos and CD showing the boundary stones fixed by the plaintiff. But it is not stated as to why they could not produce the same at the time of their evidence and it is also not stated as to how the said photos are relevant to decide the matter in question. As noted above, the parties are filing one or the other applications when the matter has reached the stage of final arguments. Moreover, no grounds have been made out by the applicants to reopen the matter at this stage. Hence, point under consideration is answered in the negative.

7. **Point No.2:-** In view of above discussion on point No.1, this court proceeds to pass the following:

ORDER

The IA.No. XIV to XVI filed by the applicant/Defendant Nos.1 and 2 under Order 18 Rule 17, Order 8 Rule 1A(3) and Section 151 of CPC are hereby dismissed.

No order as to costs.

(Dictated to the stenographer, transcribed by her, revised by me and after corrections, pronounced in the Open Court on this the **6th day of July, 2019.**)

(Arun Chougule)

Addl. Civil Judge and JMFC,
Holenarasipura.