

KAHV310005152016



Presented on : 02-09-2016
Registered on : 02-09-2016
Decided on : --
Duration :

**IN THE COURT OF THE CIVIL JUDGE & J.M.F.C.,
HANAGAL**

PRESENT: Sri. Janardhana. S.K. B.A.L., LL.B.,
Civil Judge & J.M.F.C.,
Hanagal.

O.S.No.285 of 2016

DATED THIS THE 5th DAY OF APRIL 2022

Plaintiffs : Smt. Puttavva W/o Veerabhadrappa
Malakannanavar.

(By Sri. I.K.Hantegalar – Adv.)

V/s.

Defendants : Sri. Mallappa S/o Buraneppa
Malakannanavar and 8 others.

(Def.No.1(a) to (e) By Sri.A.F.Chigarera – Adv.)

(Def.No.2 and 8 Exparte)

(Def.No.4 to 7, 9 By Sri. M.H.Mulimani- Adv.)

PARTIES TO I.A.No.VI AND VII

Applicant/

Plaintiff.No.1(d): Sri. Veerabasappa S/o Veerabhadrappa
Malakannanavar, Age: 37 years,
Occ: Agriculturist
R/o: Shankarikoppa village, Tq: Hangal.

- **V/s** -

Opponents/

Defendants : 1. Sri. Mallappa S/o Boraneppa
Malakannanavar, Age: 72 years,
Occ: Agriculturist,
R/o: Shankarikoppa village, Tq: Hangal.
And 8 others.

**(Sri. Janardhana. S.K.)
Civil Judge & JMFC.,
Hangal.**

COMMON ORDERS ON I.A.NO.VI AND VII

The applicant/plaintiff No.1(d) has filed these applications both U/o.7 Rule 14(a) R/w 151 of C.P.C., seeking leave of the court to produce the documents annexed with the list.

2. The said applications resisted by the counsel for the defendant No.1 by filing separate objections thereto inter alia among various grounds. The counsel for the

defendant No.5 to 7 and 9 has adopted the objections filed by the defendant No.1 by filing the memo to that effect.

3. Heard the arguments of both the sides and perused materials available on records.

4. The points that would arise for consideration of this Court are as follows:-

1. Whether the applicant has made out sufficient cause to allow the applications?

2. What order?

5. The finding of this Court on aforesaid points are as follows:-

Point No.1 : In the affirmative

Point No.2 : As per the final

order for the following

REASONS

6. **Point No.1:-** The applicant/plaintiff No.1(d) in the affidavits annexed to the I.A.No.VI and VII commonly deposed to the effect that he has filed affidavit in lieu of his examination in chief for himself and on behalf of the plaintiff No.1(a) to 1(c) and 1(e) and got marked several

documents. The documents sought to be produced before the court are very much essential to prove his case and same are traced very recently and as such, it is prayed that production of documents and marking the same as exhibits very much necessary. On said grounds, the applicant has prays to allow the applications.

7. The counsel for the defendant No.1 in the separate objections filed to the instant applications has commonly objected that the applications are not maintainable under the law and same are based on false assertions of facts. It is further contented that this court was framed issues on 13-07-2018 and set down the case for plaintiff evidence to 20-07-2018 and subsequently, the plaintiff intentionally took several adjournments to adduce his evidence and filed these applications to protract the proceedings. Moreover, documents produced along with the I.A.No.VI are already marked as per Ex.P1, P2, P5 and P6 and also the documents sought to be produce were already produced at the time of institution of suit on 02-06-2016 and as such, present applications are not maintainable. On said grounds, it prayed to dismiss the applications with costs.

8. In the background of said assertions and objections of the defendant No.1, I have perused the

I.A.No.VI and VII, accompanying affidavits, objections thereto and all other materials available on record. The plaintiffs have filed this suit against the defendants for the relief of partition and separate possession of their 1/6th share in the suit schedule property, and also sought to declare that partition deed dated 15-10-2014 is not binding on their shares. On perusal of entire materials available on records, it is forthcoming that after framing of issues on 30-07-2018, the plaintiff No.1(d) has already examined himself as PW-1 by filing affidavit in lieu examination in chief and on same day got marked Exp1 to P6 documents. Moreover, when the case is set down for further examination in chief of PW-1, the PW-1 / plaintiff No.1(d) came with present applications along with list and documents seeking leave of the court to produce the same and mark the same on his behalf.

9. The plaintiff No.1(d)/applicant has sought produce and mark the documents which are in nature of revenue documents certified by the competent revenue authorities in the form of mutation entries, survey sketch, record of rights and records of revenue proceedings before the revenue authorities and same are the public documents. It is well settled law is that the mere production of documents and marking them as exhibits does not dispense their

proof. The relevancy and admissibility of the documents has to be decided on the merits of the case. The court has ample discretionary power to allow the both the sides to produce documents at any stage of the suit. As contented by the counsel for the defendant No.1 in the objections, the plaintiff has also produced the documents which are similar to Ex.P4 and P5, that itself not a ground to reject the instant applications. The court can exclude the documents from marking which are already marked as Ex.P1, P2, and P5 and P6. In view of the same, the contention of the counsel for the defendant No.1 that the applicant has filed the instant applications to protract the proceedings is not tenable. In fact, if the applications are rejected which would prevent the applicant reasonable opportunities to establish his case and amounts to violation of principles of natural justice. Therefore, the applicant has made out grounds to allow him to produce the documents filed along with the present applications. Accordingly, point No.1 is answered in the affirmative.

10. The applicant has filed present applications seeking to leave of the court to produce the documents with lists U/o. 7 Rule 14(a) of C.P.C instead of U/o. 14(3) of C.P.C. It is well settled law is that mere wrong coating of provisions of law itself not a grounds to reject the reliefs

claimed in the applications. As such, the applicant be permitted to produce the documents produced along with the applications.

11. **Point No.2:** In view of aforesaid said reasons and discussions, this Court has proceed to pass the following:-

ORDER

The I.A.No.VI and VII both filed U/o. 7 Rule 14(3) R/w 151 of CPC by the applicant/plaintiff No.1(d) are hereby allowed.

Consequently, the list with documents filed by the applicant on 14-01-2022 and 09-02-2022 are taken on record.

(Dictated to the stenographer and got typed by him in the computer, once corrected and later initialed by me and then pronounced by me in the open court on this the 05th day of April - 2022)

**(Sri. Janardhana. S.K.)
Civil Judge & JMFC.,
Hangal.**

(Order pronounced in Open court as
under vide separate Order):

:O R D E R:

***The I.A.No.VI and VII both
filed U/o. 7 Rule 14(3) R/w 151 of
CPC by the applicant/plaintiff
No.1(d) are hereby allowed.***

***Consequently, the list with
documents filed by the applicant on 14-
01-2022 and 09-02-2022 are taken on
record.***

***For further examination chief
of PW-1 by 19-04-2022.***

***Civil Judge and JMFC.,
Hangal.***

