



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

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

O.S.No.322 of 2014

DATED THIS THE 15th DAY OF APRIL 2024

Plaintiffs : Somanagouda S/o Channabasappa Samshi
and 12 other.

(By Sri.M.S.Hullur – Adv.)

V/s.

Defendants : Mailareppa S/o Neelappa Megeri
and 13 other.

(Def.No.1 to 4 by Sri.P.S.Hebbal – Adv.)

(Def.No.5 to 14 absent.)

PARTIES TO I.A. No.XVII TO XIX

Applicant/

Plaintiff : 6. Gangadhar S/o Neelappa Pyati
Age: 45 years, Occ: Agriculturist
R/o: Hunasikatti, Tq: Hangal, Dist: Haveri.

- V/s -

Opponents/

Defendants: Mailareppa S/o Neelappa Megeri
Age: 50 years, Occ: Agriculturist,
R/o: Hunasikatti, Tq: Hangal, Dist: Haveri.



I	Provision under which the applications is filed	I.A.No.XVII U/sec. 151 of C.P.C, I.A.No.XVIII U/o.18 Rule 17 of C.P.C. and I.A.No.XIX U/o.7 Rule 14 R/w 151 of C.P.C.,
II	Relief sought for	To reopen the case and recall PW-1 to lead his further examination in chief and production of documents.
III	Date on which the applications are filed	23-03-2022
IV	Number of application	I.A.No.XVII to XIX
V	The date of which objections filed by the deferent opponents	11-04-2022
VI	Date on which the orders were passed on said application	15-04-2024

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

Common Orders on I.A No.XVII to XIX

The applicant/plaintiff No.6 has filed I.A.No.XVII U/sec.151 of C.P.C, to reopen the case, I.A.No.XVIII U/o.18 Rule 17 R/w 151 of C.P.C., seeking to recall PW-1 to lead



his further examination in chief and I.A.No.XIX U/o 7 Rule 14 R/w 151 of C.P.C., seeking permission to produce list with 12 documents.

2. The said applications resisted by the counsel for the defendants by filing common objections.

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

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

POINTS

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

2. What order?

5. The findings of this court on aforesaid points are as follows:-

Point No.1 : In the affirmative

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

REASONS

6. **Point No.1:** In the affidavits annexed to the applications, applicant/plaintiff No.6 has commonly deposed that he has filed this suit against the defendants for the relief of permanent injunction and presently case is



set down for arguments on merits and very recently he traced out several documents production of which necessary to prove his case. Non production of documents on time is for said bonafide reasons and not intentional one. Moreover, the DW-1 and DW-2 have denied the documents sought to be produced during their evidence and as such, it is claimed that production of said documents is very much necessary including to lead further examination in chief. On said grounds, it is prayed to allow the applications.

7. On the other hand, the counsel for the defendants in the common objections has mainly contended that the applications are not maintainable under the law. Even otherwise, the facts deposed in the affidavits in the accompanied affidavits are totally false and applications have directed with malafide intention to protract the proceedings and accordingly prayed to dismiss the applications.

8. Perused relief claimed in the applications and facts deposed in the accompanying affidavits and objections thereto filed by the counsel for the defendants. It is undisputed and apparent that plaintiff No.1 to 13 have filed this suit against the defendant No.1 to 14 for the relief of



permanent injunction to restrain them from interfering in peaceful possession and enjoyment of the suit schedule property. On the other hand, as against case of the plaintiffs, the defendant No.4 and 5 have filed their written statement and same has been adopted by the rest of the defendants.

9. As could be seen from records, based on rival pleadings the predecessor in office has framed as many as 6 issued 11-03-2019 and thereafter, to establish case of the plaintiffs, the plaintiff No.6 has examined himself as PW-1 and got marked Ex.P1 to Ex.P32 documents on his behalf. He also examined a independent witness by name Sri.Gangappa S/o Shivappa Bankapura as PW-2 and both have been cross examined by the counsel for the defendants. Having plaintiffs closed their side, to substantiate assertions in the written statement, the defendant No.4 has examined himself as DW-1 and relied upon Ex.D1 to Ex.D41 documents and consequently, closed defendant's side. At this juncture, the applicant/plaintiff No.6 has filed instant applications seeking to reopen the case to lead his further examination in chief by producing the documents and marked them as exhibits on his behalf which are produced along with I.A.No.XIX.



10. It is specific case of the applicant that he could not have produce the documents sought to be produced now due to trace out the same very recently and as such, claimed that production of the same in the suit is very much essential to prove his case. Per contra, it is prime and sole objections of the counsel for the defendants that the applicant has filed the instant application to protract the proceedings. In this regard, on consideration of documents sought to be produced and marked them as exhibits on behalf of the plaintiffs are nature of public documents in the form of record of rights and village form No.24A which are standing in the names of several defendants and in the names of several persons who are not party to the suit. Whether documents sought to be produced are material to dispose of the suit or not, is a matter of merit. Admissibility and relevancy documents sought to be produced by plaintiff by adducing his further examination in chief is to be decided at the time of disposal of suit and passing judgment.

11. No doubt, there is an inordinate delay on the part of the plaintiffs to produce the documents at belated stage when case is posted for arguments on merits. As per order 7 Rule 14(1) of C.P.C., which contemplates that the



plaintiffs ought to have produced the documents upon which they are relying at the time of presentation of plaint itself. Sub Rule (2) of order 7 Rule 14 provides opportunity to the party who sued the defendants to produce documents even at later stage subjected to permission of the court. Therefore, there is no embargo to the plaintiffs or of the defendants to produce the documents even at the belated stage which are not produced at the time of presentation of plaint or at the time of file of written statement respectively. Consequently, mere delay itself not a ground to reject the permission to the plaintiffs to produce the documents even at belated stage. The principle of natural justice requires that fullest opportunities be given the parties to the suit to establish their case by permitting them to lead sufficient oral and documentary evidence. In the aforesaid principle of law, it is to be retreated that admissibility and relevancy of documents sought to be produced is a matter of merit. At the same time, the defendants are opportunities to question the documents sought to be produced during cross examination. With aforesaid observations and subject to reasonable cost for delay in production of documents, the considered opinion of this court that it is appropriate to permit the plaintiff No.6/applicant/PW-1 to adduce his further examination in chief by reopen the case and



recalling him including permission to produce the documents sought to be produced. Accordingly, point No.1 is answered in the affirmative.

12. **Point No.2**:- In the light of aforesaid reasons and discussions, this court has proceed to pass following:-

: ORDER :

I.A.No.XVII filed U/sec. 151 of C.P.C., I.A.No.XVIII filed U/o.18 Rule 17 R/w 151 of C.P.C., and I.A.No.XIX filed U/o 7 Rule 14 R/w 151 of CPC by the plaintiff No.6 are hereby allowed on cost of Rs.150/-.

(Dictated to Stenographer, directly typed by him on computer, once corrected and later initialed by me and then pronounced by me in the open court on this the 15th day of April - 2024)

**(JANARDHANA S.K)
Civil Judge and JMFC.,
Hangal.**