

**IN THE COURT OF THE CIVIL JUDGE AND JUDICIAL
MAGISTRATE FIRST CLASS, SAVANUR.**

PRESENT : **Sri. Shreyansh Doddamani,**
B.Com., LL.B.,(spl)
Civil Judge and JMFC.,
Savanur.

ORIGINAL SUIT NO. 118/2010
Dated this 29th day of May, 2023

PLAINTIFFS: Dilerkhan S/o Abdulkarimkhan Biradar,
Age : 25 years, Occ : Agriculture,
R/o : Old Bungalow, Savanur,
Tq : Savanur, Dist : Haveri and others.

Vs

DEFENDANTS: Shahazad Begum @ Rahamatkhatib
W/o Mustaqkhan Biradar, Age : 60 years,
Occ : Household work, R/o : Kamalabangadi
Street, Savanur, Tq :Savanur, Dist : Haveri
and others.

IA No.12

Applicants: Tabrezkhan S/o Khasamkhan Biradar
(Plaintiff No.8) and others

Vs

Opponents: Shahazad Begum @ Rahamatkhatib
(Defendants No.1) W/o Mustaqkhan Biradar and others.

ORDER ON IA NO.12

The plaintiffs have filed this application U/o 16 Rule 6 read with 151 of Code of Civil Procedure for direct the defendant No.01 and 2 to produce Ex.P.1 to 106 in OS No.171/1984 which was disposed on 31.10.1994 in order to prove their case.

2. The plaintiff No.8 by name Tabarejkhan S/o Khasimsab Biradar has sworn in an affidavit accompanying with IA No.12 wherein he stated that they have made serious allegations against defendant No.1 and 2 in respect of fraudulent decree obtained by defendant No.1 and 2 in OS No.171/1984. Where in they have produced Ex.P.1 to 106, those documents reveals the real status of the properties of Saradar Mehabbobalikhan Biradar Nawab of Savanur. They were also legal heirs of Nawab of Savanur and successor as per the genealogy shown in the suit. The defendant No.1 and 2 returned the Ex.P.1 to 106 on 17-06-2005 and they have under taken that if court directs they have returned the documents. The said documents are very necessary to prove their case. Hence, they prayed to direct to produce said documents before the court.

3. The defendants have filed objections by stating that application is neither tenable in law nor facts. The suit OS No.171/1984 was disposed back long ago. The plaintiffs cannot seek any relief in respect of the suit OS No.171/1984. It is not permissible under law. The said documents are public documents they can have certified copies. The said documents were produced in other cases. Hence, they prayed to reject the IA.

4. Heard both the sides and perused the materials on record.

5. The following points arise for my consideration:

POINTS

1) **Whether the application is made out grounds to allow?**

2) **What order ?**

6. My answers to the above points are as follows:

Point No.1 : In the Affirmative.

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

:-REASONS:-

7. Point No.1 :- The plaintiffs have filed this IA on 02.02.2015 at the stage of hearing on IA No.10. The defendants have filed objection on 05.03.2015. But thereafter it has been adjourned for one or other reason.

8. The plaintiffs have filed this application U/o 16 rule 6 of Code of Civil Procedure. The defendants contended that application is not maintainable under the said provision. Therefore, it is necessary to read the provision which reads as under,

6. *Summons to produce document :-*

Any person may be summoned to produce a document, without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

In view of the above provision the application is maintainable at this stage. The plaintiffs not explained what are the Ex.P.1 to 106 and also not explained by those documents are required to them. They have simply stated that those documents are requires to prove their allegations against defendant No.1 and 2. However, the defendant No.1 and 2 admittedly returned the said documents on 21.06.2005 as per order dated 17.06.2005. One Mustaqkhan Phirojkhan Biradar who is the GPA holder of Shahazadbegum @ Rehamatkhatu M. Biradar received the said documents by under taking that if court directs he will produce the said documents. As per the provision any parties who have produced the documents copy the certified copies at the time of return the documents. But in the OS No.171/1984 the present defendant No.1 and 2 not kept certified copies of Ex.P.1 to 106. He returned the documents. The concerned clerk also without following the provision returned the documents. The defendant No.1 and 2 in their objection clearly admitted they have produced the said documents in another case. They have also contended that the said documents are public documents. But they have also not explained the description of the documents i.e., what are those documents.

They have also not explained what prevent them to produce those documents. If they have produced those documents in other cases they can obtain the certified copies and produced said documents in the present case. During the arguments the defendants counsel produced they have produced some of the documents out of Ex.P.1 to 106 before this court. It clearly appears that those documents are available. Hence, it is necessary to allow the application subject to the condition. Hence, I answer the **point No.1 in the Affirmative.**

9. Point No.2:- For the foregoing reasons, I proceed to pass the following;

ORDER

The application filed U/O 16 Rule 6 of Code of Civil Procedure by plaintiffs is hereby allowed.

The defendant No.1 and 2 are hereby directed to produce the Ex.P.1 to 106 in OS No.171/1984 except already produced before this court within three days.

No order as to cost.

(Dictated to the stenographer, transcribed and typed by her, corrected, signed and then pronounced by me in the Open Court on this the 29th day of May 2023)

CJ & JMFC., Savanur.

(Order pronounced in the open court vide separate)

ORDER

The application filed U/O 16 Rule 6 of Code of Civil Procedure by plaintiffs is hereby allowed.

The defendant No.1 and 2 are hereby directed to produce the Ex.P.1 to 106 in OS No.171/1984 except already produced before this court within three days.

No order as to cost.

CJ & JMFC., Savanur.

