

Orders on applications filed by the defendant No.7 to 10 U/o 18 rule 17 Sec.151 and also U/o 8 rule 1 (A) (3) of CPC to recall and reopen the evidence of DW3 and also permit them to produce the documents annexed with the application by condoning the delay.

These applications are filed by the defendant No.7 to 10 U/o 18 rule 17, Sec.151 and also U/o 8 rule 1 (A) (3) of CPC to recall and reopen the evidence of DW3 and also permit them to produce the documents annexed with the applications by condoning the delay if any by allowing the applications in the interest of justice and equity..

2. In the application it is stated that the intending documents are very much necessary for proving their case and therefore, they have produced the above documents and in order to mark those documents, it is necessary to recall and reopen the case of DW3. On these grounds sought for allow the applications.

3. On the other hand, the counsel for the defendant No.1 to 5 has filed the detail objections to the applications and the counsel for the plaintiff has filed memo adopting the contents of objections filed by the defendants.

In the objection, the defendant No.3 is totally denied the averments of the affidavit and applications and the defendant No.7 to 10 have not made out any sufficient grounds to allow their applications and to condone the delay and unnecessarily and to drag on the proceedings and waste and spoil the precious time of this court, they have filed these applications which are not maintainable. On these grounds prayed for dismissal of applications with costs.

4. Heard arguments on both sides.

5. The points for arise for my consideration is as under;

POINTS

1. Whether the defendant No.7 to 10 have made out sufficient grounds to allow their applications.
2. What order?

6. My findings on the above points:

Point No.1 : In the Affirmative.

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

REASONS

7. POINT No.1. It is pertinent to note

that the plaintiffs have filed this suit for partition and separate possession against the defendants with respect to the suit schedule properties.

8. When the case is posted for further cross of DW3, the defendants No.7 to 10 come up with present applications, to recall and reopen the further chief of DW3 and permit him to produce the documents annexed with list and mark the same.

9. On perusal of the objections filed by the plaintiff and defendant No. 1to5 which are formal in nature and another opportunity is given for the defendants No.7 to 10 for production of documents and recall and reopen the case of DW.3, no loss or hardship will be caused to the plaintiff or defendants No.1 to 5. At this juncture, I would like to rely upon decision reported in **2015(3) Karnataka Law J 67 in between Dr.Hema Haranha and others V/s A.Mariyappa**, his lordship has held that *“though the several applications has been filed by party, but one more opportunity will be given to the DW.1 to cross examined of PW.1 and if this court allowed the application. There is no hardship will be caused to the*

defendants.” In view of principle laid down in the above decision, if this court has given one more opportunity to the defendants, no loss or hardship will be caused to the plaintiff and defendants No.1 to 5. Under such circumstances considering the reason assigned in affidavit it is held that, if the applications are allowed by imposing reasonable costs, it would suffice the objection raised by plaintiff and defendants No.1 to 5. Accordingly, I answer point No.1 In the Affirmative.

10. **POINT No.2:** On forgoing discussion, I proceed to pass following.

ORDER

The interim applications filed by the defendants No. 7 to 10 U/O 18 rule 17 R/w. Sec. 151 and U/o 8 Rule 1(A)(3) R/w. Section 151 of CPC are hereby allowed on costs of Rs.1,000/-.

Further, chief of DW.3 is recalled and defendants No.7 to 10 are permitted to produce the documents annexed with the applications, subject to payment of costs.

SENIOR CIVIL JUDGE & JMFC,
ALAND.