

KAKB210002492019



**IN THE COURT OF SENIOR CIVIL JUDGE AT ALAND,
KALABURAGI DISTRICT.**

:PRESENT:

SRI. S.M. ARUTAGI
B.com. LLB., (Spl)
SENIOR CIVIL JUDGE, ALAND.

O.S.No.60/2019

DATED THIS THE 23rd DAY OF FEBRUARY 2023

Plaintiff: Sirajunnisa W/o Imamoddin Shaikh &
another,

V/s

Defendant: Syed Maheboob S/o Mastansab
Saiduwale & others,

PARTIES TO ORDER ON IA NO.V.

Applicants/ 1. Sirajunnisa W/o Imamoddin Shaikh,
Plaintiffs Age: 60 Years, Occ: Household,
R/o Bandgipiir Colony, Aland,
Dist. Kalaburagi.



2. Raisa Begum W/o Mukthar
Darulwale @ Shaikh, Ae: 50 Years,
Occ: Agriculture, R/o Qureshi Galli,
Aland, Tq. Aland, Dist. Kalaburagi.

(By Sri. S.A. Patil, Advocate)

Vs.

Opponent 1. Syed Maheboob,
Defendant-1: S/o Mastansab Saiduwale,
Age: 54 Years, Occ: Private Service,
R/o Aland, Now residing at
H.No.7, 8, 4 D, Dharavi Depo,
P.M.G. Colony Mumbai.

(By Sri. B.A. Deshpande, Advocate)

ORDER ON APPLICATION FILED UNDER ORDER 13
RULE 10 R/W SECTION 151 OF CPC BY
PLAINTIFFS.

This is an application filed by the plaintiffs U/O., 13
Rule 10 R/w Section 151 of CPC, to call for the records
from the Chief Officer, TMC, Aland, with respect to the



house properties TMC bearing No.6-5-69, 6-5-70, 6-5-71, 6-5-72 before this court by allowing the application in the interest of justice and equity.

2. In the affidavit of plaintiff No.2 annexed to the application, it is stated that they have applied for khata extract of suit property, but the Chief Officer, TMC, Aland, had given endorsement that there is no layout of the suit house property and therefore, it cannot be given and the reason submitted by the Chief Office is not proper and also illegal against the provision of municipal Act. Therefore, it is necessary to issue direction to the Chief Office, TMC, Aland i.e., the defendant No.8 to produce the application documents, otherwise they will be put to great and irreparable loss. Hence, sought for allow the application.



3. On the other hand, the counsel for the defendant No.1 files detail objection stating that the application is not maintainable under the law and facts and the plaintiffs have filed this application without any supporting documents. It is also contended that the plaintiffs have made the Chief Officer, TMC, Aland as one of the party to the suit and sought for his prosecution for his biased approach, but no any relief is claimed against him. Now, the plaintiffs want to direct the the Chief Office, TMC, Aland, to produce the documents which cannot be sustainable in the eye of law. Even, in view of law, no direction can be issued against any authority and hence, the petition is not maintainable. On these grounds, prayed for dismissal of the application with costs.

4. Heard arguments on both side.



5. On the basis of application and objection, the following points arise for my consideration:-

1) *Whether the plaintiffs have made out sufficient grounds to allow their application?*

2) *What order?*

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

Point No.1 : In the negative.

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

7. **Point No. 1:** It is pertinent to note that the plaintiffs have filed this suit for the relief of partition and separate possession against the defendants with respect to the suit schedule property.

8. When the matter was posted for further chief of PW-1, the plaintiffs have come up with the present application to direct the defendant No.8 to produce the



proper khata extract of the TMC bearing No.6-5-69, 6-5-70, 6-5-71, 6-5-72, before this court.

9. The main contention of the plaintiffs is that they have applied for certified copy of the application documents, but the defendant No.8 authority had given endorsement as per Ex.P-2 stating that there is no layout to the suit house properly and therefore, it cannot be given to them.

10. On meticulously perusal of the application and objection filed by the both parties to the suit and Ex.P-2 i.e., endorsement issued by the defendant No.10 authority, it is clear that the plaintiffs prior to filing of this suit, applied for certified copy of Form No.3 before the defendant No.8 authorities, but the said authorities had given Ex.P-2 endorsement stating that as per the circular issued by their higher authorities i.e., the



Director of Urban Development Authority, when there is non availability of NA layout, no question of providing the Form No.3 to the plaintiffs. So, the defendant No.8 authorities already given endorsement to the plaintiffs as per Ex.P-2. Instead of that, the plaintiffs have filed this application to call for the above documents from the defendant No.8 authorities. First of all the plaintiffs have to prove the existence of the application house properties within the TMC limits of Aland and thereafter, sought for direction to call for the application documents from the defendant No.8 authorities with regard to existence of application properties. The plaintiffs have not furnished any authenticated documents before this court about existance of application properties and for that reason, the



defendant No.8 authorities had issued an endorsement as per Ex.P-2.

11. At this juncture, I would like to rely upon a decision ***reported in AIR 1989 Karnataka 61: ILR 1987 (3) Karnataka : 1898 (2) KLJ 223; in a case of Papanna V/s Dodde Gowda***, wherein his lordship has held that,

The power of the Court to call for records from its own office or from other Courts is wide and discretionary. The Court must apply its mind and should pass orders only if calling for records would not hamper the proceedings before any other Court. Unless it is not possible for the applicant to obtain and produce the authenticated copies of the same, the Court should not call for records and documents.



12. On perusal of the above cited decisions, his lordship has clearly held that there should be serious application of the mind of the court as to the documents and records which are required to be called for from the other courts. Before calling for the records or documents in the other courts from the pending proceedings, the court calling for the records and documents must bear in the mind that it hampers the further progress of the proceedings before the other courts and therefore, it must be careful to find out whether such documents and records are absolutely necessary for deciding the case before it. Then only it should call for those documents and records wherever the originals of the same are necessary and in the cases where the original are not necessary, the same should not be called for, unless it is not possible for the



applicant to obtain and produce the authenticated copies of the same.

13. In the instant case also, as already held that the plaintiffs have not produced any single scrap of documents to show that the application properties are in existence within the limits of the TMC, Aland. Moreover, in Ex.P-2 itself, the defendant No.8 authorities clearly stated that when there is no NA layout, then issuance of Form No.3 does not arise to the plaintiffs and for that reason, they have not provided the application documents to the plaintiffs and therefore, the intention behind filing this application, clearly goes to show that the plaintiffs are not interested to proceed with the case and in order to drag on the matter and to spoil and waste the precious time of this court, filed this application. Hence, the plaintiffs have



not made out any sufficient grounds to allow their application. Accordingly, I answer **point No.1 in negative.**

14. **Point No.2:-** For the above said reasons, I proceed to pass the following;

ORDER

Interim Application filed U/O., 13
Rule 10 of CPC, by the plaintiffs is
hereby rejected with costs.

(Dictated to the Stenographer, transcribed by her, then
corrected by me and pronounced in the open court on
this the 23rd day of February, 2023)

(S.M. ARUTAGI)
Senior Civil Judge,
Aland.

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