

ORDER ON I.A. NO.1 FILED UNDER
ORDER I RULE 8 OF CPC

The plaintiff has instituted the present suit seeking a decree of mandatory injunction contending that the shops constructed by TMFC, Jewargi, have been illegally allotted to certain beneficiaries without following the prescribed procedure and applicable rules. It is the contention of the plaintiff that the impugned allotments affect not only the plaintiff but also several other persons who are similarly situated and interested in the subject matter of the suit.

2. During the pendency of the suit, the plaintiff has filed I.A. No.1 under Order I Rule 8 of the Code of Civil Procedure seeking permission to prosecute the suit in a representative capacity and for issuance of public notice through newspaper publication to all persons having interest in the subject matter.

3. I have heard the learned counsel for the plaintiff and perused the application and records.

4. Order I Rule 8 CPC permits one or more persons to sue or defend on behalf of numerous persons having the same interest in a suit. The object of the provision is to avoid multiplicity of proceedings and to enable the Court to effectively adjudicate disputes involving a large body of persons having a common interest.

5. From the averments made in the plaint and the application, it appears that the challenge pertains to the allotment of shops made by TMFC, Jewargi. The relief sought is not confined to the individual rights of the plaintiff alone, but may affect other persons who are interested in or likely to be affected by the outcome of the litigation. Therefore, it is necessary that such persons are given an opportunity to come on record and place their objections, if any.

6. This Court is of the opinion that the requirements of Order I Rule 8 CPC are prima facie satisfied and that issuance of public notice would serve the ends of justice. No prejudice would be caused to any party if an opportunity is provided to all interested

persons to participate in the proceedings. Accordingly, I.A. No.1 deserves to be allowed.

ORDER

I.A. No.1 filed by the plaintiff under Order I Rule 8 of the Code of Civil Procedure is hereby allowed.

The plaintiff is permitted to prosecute the suit in a representative capacity on behalf of all persons having the same interest in the subject matter of the suit.

The plaintiff shall take steps for publication of notice in one widely circulated Kannada daily newspaper Samyukta-Karnataka having circulation in Kalaburagi District/Jewargi Taluk, notifying the institution of the suit and inviting objections, if any, from interested persons.

Any person having an interest in the subject matter of the suit shall be at liberty to appear before the Court and seek impleadment in accordance with law within the time specified in the publication.

The plaintiff shall produce the newspaper publication and compliance report on the next date of hearing.

CJ and J.M.F.C.
Jewargi.

ORDER ON I.A. NO.2 FILED UNDER ORDER XI
RULE 14 CPC

The plaintiff has filed the present suit seeking a decree of mandatory injunction in respect of the allotment of shops constructed in the Vegetable Market situated at Old Bus Stand, Jewargi. The specific contention of the plaintiff is that the allotment of the suit shops has been made without following the prescribed procedure and in violation of the applicable rules and guidelines governing such allotments.

2. During the pendency of the suit, the plaintiff has filed I.A. No.2 under Order XI Rule 14 of the Code of Civil Procedure praying for a direction to Defendant No.8 to produce the records pertaining to all Shop No.112 constructed in the Vegetable Market, Old Bus Stand, Jewargi, including the allotment proceedings, applications received, eligibility criteria adopted, selection records, orders of allotment and other connected documents.

3. Heard the learned counsel for the plaintiff. Perused the application and the material available on record.

4. The principal controversy involved in the suit relates to the legality and validity of the allotment of the shops. The records sought by the plaintiff are directly connected with the issues involved in the suit. The allotment file and connected documents are admittedly in the custody and possession of Defendant No.8. The plaintiff cannot be expected to independently secure such documents.

5. Order XI Rule 14 CPC empowers the Court to direct production of documents which are in the possession or power of a party and which relate to matters in question in the suit. The purpose of the provision is to enable the Court to effectively adjudicate the dispute on the basis of relevant material and to avoid suppression of documents having bearing on the controversy.

6. In the present case, the documents sought are necessary for proper and effective adjudication of the issues involved in the suit. Production of such records would assist the Court in ascertaining whether the allotment was made in accordance with law and the prescribed procedure. No prejudice would be

caused to Defendant No.8 by production of official records which are relevant to the dispute.

7. Accordingly, this Court is of the opinion that the application deserves to be allowed.

ORDER

I.A. No.2 filed by the plaintiff under Order XI Rule 14 of the Code of Civil Procedure is hereby allowed.

Defendant No.8 is directed to produce before this Court the original records relating to all Shop No.112, situated in the Vegetable Market, Old Bus Stand, Jewargi, including:

1. Applications received for allotment of the said shop;
2. Proceedings relating to scrutiny and selection;
3. Eligibility records of the allottee;
Resolution, proceedings or orders concerning allotment;
4. Allotment order and connected correspondence; and
5. Any other records connected with the allotment of the said shop.
6. The said records shall be produced on or before the next date of hearing.

7. Issue necessary summons/notice to Defendant No.8 for compliance.

Issue intimation to defendant No.8 as per I.A.No.2 and steps.

CJ and J.M.F.C.
Jewargi.