

**IN THE COURT OF PRL. CIVIL JUDGE AND
JMFC AT BANGARPET**

Present:- Sri. A.C. DAYANANDMURTHY, B.A. LL.M.,
Prl. Civil Judge and JMFC, Bangarpet.

Dated this the 23rd day of August 2019

O.S. 185/2013

Plaintiff : Krishnappa

(By Sri.VSV Advocate)

- Vs -

Defendants: Muniswamy & others

(D1- abated. D2 Sri.NN
D3 to 6- Sri.NJP
D7-Exparte,
D8 Sri.MN Advocate)

PARTIES TO I.A. No.7

Applicant : Krishnappa

- V/s -

Opponents : Muniswamy & others

ORDERS ON I.A. No.7

The defendant has filed I.A. 7 under order 7 rule 11 read with Section 151 of CPC., to reject the plaint.

2) The defendant No.2 has sworn in his affidavit that they could not able to file their written statement within time due to the reasons that they were gone to Hyderabad on coolie work for survival, since for the past 2-3 years continuously draught is hit in Kolar District area and they being very poor persons did not have any work to do in order to survive and recently when they came back to their village then they have contacted their advocate and verified the stage of the suit and then they come to know that no written statement was filed. Hence now they are filing the written statement. Hence he prayed to allow the application.

3) On the other hand, the plaintiff has filed objections by denying the affidavit along with application and contended that the application filed by the 2nd defendant is not maintainable either in

law or on facts. This defendant has intentionally and willfully filing the application for drag on the proceedings of the said case, because of this defendant has filed one more suit against the plaintiff before Addl. C.J.Bangarpet, in OS.190/2013 for the relief of permanent injunction, this case is set down for cross-examination of defendant. Hence he filed a vague application. Hence he prayed to dismiss the application.

4) Heard the arguments. Perused the materials placed on record.

5) The points that would arise for my consideration are as under:

1. Whether the application filed by the defendant No.2 under order 7 rule 11 read with section 151 of CPC is deserves to be allowed?

2. What order?

6) My findings on the above points are as follows:-

Point No.1 : In the negative

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

REASONS

7) Point No.1 :-

Admittedly, this is a suit filed by the plaintiff against the defendant for the relief of declaration and permanent injunction. It is pertinent to note that while considering the application under order 7 rule 11 court should look into the entire plaint. In the entire plaint, court found that the suit is barred by any law, then court may reject the plaint. Further it is settled law that on the basis of written statement affidavit sworn by the defendant along with IA-7 is supported to IA.No.7. While perusing the entire plaint, court found that the suit is maintainable and suit is not barred by any other law.

8) Further, it is pertinent to note that the affidavit sworn by the defendant is seeking permission to file written statement. But, while perusing the application prayer, the plaintiff prays rejection of plaint, as there is no cause of action. This type of affidavit shows that the malafide intention of the defendant to drag on the proceedings, though the second defendant sworn to

the affidavit regarding the permission to file written statement. The only intention of the second defendant to file an application for rejection of plaint as there is no cause of action. This type of affidavit along with IA shows that the negligent part of the party, though the party not able to understand the exact situation of the case and what is the sanctity of the court time. This type of attitude should be curtailed by the court. Hence, this court is having opinion to impose cost for this type of unnecessary application along with affidavit, which is not support to the I.A. Hence, court imposes the cost of Rs.2500/- to the party. Hence application filed by the defendant for rejection of plaint is to be rejected. Hence point No.1 is answered in the Negative.

9) **POINT No. 2** :- In view of the findings on the Point No.1, I proceed to pass the following:

ORDER

The IA-7 filed by the defendant under order 7 rule 11 read with section 151 of

CPC is hereby rejected with costs of
Rs.2500/-

(Dictated to the steno, directly on computer, typed by him,
corrected signed & then pronounced by me in the open Court on
this 23rd day of August 2019.)

(A.C. DAYANANDMURTHY)
Prl. Civil Judge and JMFC,
Bangarpet.