

KAKL510016732016



**IN THE COURT OF THE II ADDL. CIVIL JUDGE & JMFC.,
KGF**

Dated this the 22nd day of October, 2024

:PRESENT:

**SRI. MANJU.M. B.Sc., LL.B
II Addl. Civil Judge & JMFC., K.G.F**

O.S NO.426/2016

PLAINTIFF: Smt.Rashida Bee
W/o Late Amanulla.

V/S

DEFENDANTS: Smt.Najmunisa
W/o Anwar Pasha
and Others.

CAUSE TITLE ON IA No.XV AND XVI

APPLICANT:

Sri.Mohammed Shafiulla
S/o Mehidin Basha.

(By Sri.N.S., Advocate)

V/s**OPPONENT:**

Smt.Rashida Bee
W/o Late Amanulla.

(By Sri. K.C.N., Advocate)

i	Provision under which the application is filed	Under Sec.151 of CPC and Under Order VIII Rule 1(A) R/W Sec.151 of CPC
ii	Relief sought for	To permit the defendant no.3 for further chief examination and by condoning the delay in producing the documents
iii	The date on which the application is filed	27-09-2024
iv	Number of the application	IA.No.XV & XVI
v	The date on which the objections are filed by different opponents	16-10-2024
vi	The date on which the orders were passed on the said application	22-10-2024

ORDERS ON I.A.NO.XV AND XVI

The Defendant no.3 has filed IA No.XV and XVI under Section 151 of CPC and under Order 8 Rule 1(A) R/w Sec. 151 of CPC to permit the defendant no.3 for further chief examination and by condoning the delay in producing the documents.

2. These applications are supported by an affidavits of the defendant no.3. In the said affidavits the Applicant has contended that, at the time of filing of the suit, the defendant no.3 has filed some important documents and the said documents was not marked by oversight and the said documents are very important documents. Further, it is submitted that, the documents produced along with the applications are material documents to decide the case of defendant no.3. Further, it is submitted that, if the applications are not allowed, the defendant no.3 will be put to irreparable injury and loss. Hence prays to allow the applications.

3. The Plaintiff has filed objection to IA.No.XV and XVI and contending that, the applications filed by the defendant no.3 is not maintainable either in law or on facts of the case and same are liable to be dismissed. Further, it is contended that, the photos or CD produced by the defendant no.3 is no where connected to the plaint schedule property. Further, it is contended that, the defendant no.3 has filed these applications only to drag the proceedings and to grab the plaintiff's property. Further, it is contended that, the plaintiff already filed a suit against the defendants over the house property in OS.No.353/2023 and same is well known to the defendants and intentionally filed these applications. Hence prays to dismiss the applications.

4. Both counsels submits that, arguments may be taken as heard.

5. The points that arose for my determination is:

Point No.1: “Whether the Defendant no.3 has made out grounds to allow IAs filed under Sec.151 of CPC and under order VIII rule 1(A) of CPC?

Point No.2: What Order?

6. My answer to the above points as follows;

Point no.1: In the affirmative

Point no.2: As per final Order for
the following;

:REASONS:

7. POINT NO.1:

It must be noted that, I need not repeat the contention of the plaintiff here also, since, I have already narrated the same at the inception of this order.

8. The Plaintiff has filed the suit for permanent injunction, Now the case is posted for cross examination of DW1. At this juncture IA No.XV and XVI are filed by producing some documents.

9. As per the counsel for Defendants the said documents are very essential to prove their case and the above said reason is a bonafide one and not intentional one.

10. Perused the document produced by defendants. As far as the production of documents is concerned decision reported in AIR 2010 SCW 1900 (LIC of India V/S Rampal Singh Bisen) is relevant, where in it is held as under.

“Admission of documents may amount to admission of contents but not its truth. Contents of documents cannot be proved by merely filing in a court.”

11. The above decision is sufficient to hold that documents are not proved only because of production before the court. Mere production of document before the court is not admissibility of document. In order to give fair opportunity to the defendant no.3, it is just and proper to allow these applications, Accordingly I give my findings to the **point No. 1 in the Affirmative.**

POINT NO.2:

12. For the aforesaid discussion on Point No.1, this Court proceeds to pass the following:

ORDER

I.A.No.XV and XVI filed by the Defendant no.3 are hereby allowed on cost of Rs.100/- subjecting to proof, relevancy and admissibility of document.

(Dictated to the Stenographer directly on computer, typed by him corrected and then pronounced by me in the open court on **22nd day of October, 2024**)

Sd/-

(MANJU.M)

II Addl, Civil Judge & JMFC,
KGF.