

KAKL510000352019



IN THE COURT OF I ADDL. CIVIL JUDGE AND J.M.F.C.,
AT : K.G.F.

Present:

Smt. Shemida.K, B.A.(Law), LL.B.,
1st Addl. Civil Judge and J.M.F.C,
KGF

Original Suit No.15/2019

Dated this the 26th day of November, 2025

Plaintiffs : Nanjappachari. R

Dead by LR's,

(a). Smt. Sharadhamma,

W/o Late Nanjappachari,

Aged about 82 years,

R/at 1st Block, Parandahalli Village and Post,

Bethamangala Hobli, KGF Taluk.

(b). Sri. Uday Kumar,

S/o Late Nanjappachari,

Aged about 63 years,

R/at C/o Murali Rajeshwari,

Behind Kanaka Bhavana,

10th Cross Hoskote,

Bangalore Rural District

(c). Smt.Bhuvaneshwari,

D/o Late Nanjappachari,

W/o Amaranatha Chari,

Aged about 59 years,

R/at 3rd cross, behind BMTC Depto,

Shed Road, Devasandra,

KR Puram, Bangalore East District.

(d). Smt.N.Vedhavathy,

D/o Late Nanjappachari,

W/o Shivakumar,

Aged about 56 years,

R/at No.71/2, 6th Cross,
behind Shridharagudda Ashrama Hempegepura
Main Road, Kodipalya, Bengaluru.

(e). Sri. Brahmananda,
S/o Late Nanjappachari,
Aged about 53 years,
R/at 1st Block,
Parandahalli Village and Post,
Bethamangala Hobli, KGF Taluk.

(Rep. By Sri.S.K.S., Advocate)

V/s

- Defendant :**
- 1. Smt. Yeshodamma,**
W/o Late R Krishna Reddy,
Aged about 82 years,
R/at 1st Block, Parandahalli Village,
Bethamangala Hobli, K.G.F. Taluk.
 - 2. Sri. K Prakash A Prakash Reddy**
S/o Late R Krishna Reddy,
Aged about 71 years,
R/at No.115, Opp. Panchayath Office
Parandahalli Village,
Bethamangala Hobli
K.G.F. Taluk.
 - 3. Smt. Neelamma**
D/o Late. R Krishna Reddy
W/o Prathap Reddy,
Aged about 51 years,
R/at Karkunta Village
Ramkuppam Mandalam
Chittoor Dist. A.P. and also
R/at Parandahalli Village
Bethamangala Hobli
K.G.F. Taluk.
 - 4. Nagabhushan Reddy,**
S/o Late. R Krishna Reddy,
Aged about 47 years,
R/at Parandahalli Village
Bethamangala Hobli, K.G.F. Taluk.

5. Purushotham Reddy,

S/o Chenna Reddy and Late. Geethamma
 Aged about 24 years,
 R/at Parandahalli Village,
 Bethamangala Hobli,
 K.G.F. Taluk.

6. Smt. Prema,

W/o Venugopala Reddy,
 D/o Late Krishna Reddy,
 Aged about 56 years,
 R/at Parandahalli Village,
 Robertsonpet Hobli, KGF Taluk.

(Rep. By Sri.P.R., Advocate)

IA No.6 and 7

APPLICANT : **Sri.K.Prakash Reddy,**
 (Defendant No.2)
V/s
OPPONENT : **Sri. Nanjappachari**
Dead rep. by his LRs,
 (Plaintiffs)

i. Provision under which the application is filed	Under Sec.151 of CPC and Order 8 Rule 3(a) r/w Sec.151 of CPC filed by the defendant
ii. Relief sought for	To recall DW1 for further chief-examination and sought permission to produce additional documents.
iii. The date on which the application is filed	03.11.2025
iv. Number of the application	IA.No.6 and 7
v. The date on which the objections are filed by different opponents	14.11.2025
vi. The date on which the orders were passed on the said application	26.01.2025

ORDER ON I.A.No.6 AND 7

The first application filed by the defendant under Section 151 of CPC as IA No.6 seeking permission to re-call DW1 for further chief-examination and second application under Order 8 Rule 3(a) r/w Sec.151 of CPC as IA No.7 seeking permission to produce additional documents in the interest of justice and equity.

2. In the affidavits filed in support of said applications, the defendant No.2 has stated that the plaintiffs have filed the present suit against them for the relief of declaration of title and other reliefs. Further stated that the suit-schedule property is their ancestral property and their father acquired under Partition Deed regarding it he intend to producing certified copy of Partition Deed, which he has recently traced out, to substantiate their case and it has to be marked as exhibits on their behalf. Further stated that he is not given an opportunity to mark the document, he will be put to irreparable loss and injury and on the other hand if the annexed application is allowed the plaintiff will not be put to any loss or hardship. Hence prays to allow the applications.

3. On the other hand, the plaintiffs have filed separate objections to the said applications wherein it is contended that the present applications are not maintainable either in law or on facts. Further contended that now the matter is posted for further cross of DW1 at this stage the present applications are not maintainable. Further DW1 in his cross-examination stated that he will produce the documents which contains his father's signature, but instead of doing so, the defendant is producing the said certified copy of Partition Deed which was admitted by the plaintiff in para No.4 of the plaint. Hence producing the said document is not required.

Further contended that DW1 during his chief examination failed to produce the said document and at this stage it is not considerable. Further if the applications are allowed the plaintiffs will be put to irreparable loss and injury and inconvenience which shall not be compensated in any terms. Hence it is prayed for rejection of the applications.

4. Heard both the sides and perused the documents on records.

5. Now the points that arise for my consideration are:

1) Whether the applicant has made out grounds to allow the applications filed under Sec.151 of CPC and Order 8 Rule 3(a) r/w Sec.151 of CPC as IA.No.6 and 7, to recall DW1 for further chief-examination at this stage as prayed for ?

2) What order?

6. My findings on the above points are as under:

Point No.1 : In the Affirmative,

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

: REASONS :

7. POINT No.1:- Perused the entire records, instant application with affidavit and objections filed by the party and also arguments canvassed by the learned advocates for the parties. Admittedly the plaintiffs have filed the present suit for the relief of declaration of title, permanent injunction, Release Deed dated 13..07.2018 is not binding on the plaintiffs, Gift Deed dated 13.07.2015 not binding on the plaintiffs. When the matter was stood for further cross of DW1, the present two applications were filed by the defendants and opposed by the plaintiffs.

8. Before going into the merit of the application it is appropriate to glance the brief history of present suit. In this case the defendants contesting the matter from 2019 onwards and several applications were filed and disposed off. Meantime defendant No.6 was impleaded as necessary party and recently the plaintiff has concluded his evidence. Meantime plaintiff No.1 has demised. Hence his LRS were brought on record. That on 18.08.2025 defendant No.2 examined as DW1 and documents also marked. Meantime the present application was filed.

9. In the applications the defendants stated that recently they have obtained the Partition Deed which they intend to produce. The contention of the plaintiffs is that they have admitted the execution of said Partition Deed dated 02.12.1974, hence producing the same does not arise. As stated supra in this case two documents were challenged by the plaintiffs i.e., Release Deed as well as Gift Deed and it is true that said Partition Deed admitted by plaintiffs and they have not produced the same during their side of evidence which now the defendant No.2 intend to produce which can be considered as it is declaration suit. It is true that admitted facts need not be proved, but it does not prohibit the party to furnish the supportive document.

10. It is to be noted that one of the applications was filed by the defendant No.2 under Sec.151 of CPC which deals about saving of inherent powers of the Court which reads as follows: *“Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice, or to prevent abuse of the process of the Court”*. The above said section clearly shows the discretionary power of the

Court to pass appropriate order in the interest of justice if there is no provision in the CPC. Further the another provision under Order 8 Rule 1(A)(3) of CPC which is related to duty of defendant to produce documents upon which relief is claimed or relied upon him. Further (3) deals about *A document which ought to be produced in Court by the defendant under this rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.* The above said provisions clearly gives opportunities to the defendants to produce additional documents.

11. It is pertinent to note that, Apex court in **AIR 2013 SC 1849: M/s BAGAI CONSTRUCTION THR.ITS PROPRIETOR LALIT BAGAI V/s M/S GUPTA BUILDING MATERIAL STORE** (as stated supra), it is further held that; 10. In *K.K.Velusamy Vs. N.Palanisamy,(2011)11 SCC 275*, even after considering the principles laid down in *Vadiraj Naggapp Vernekar(dead) through L.Rs v. Sharadchandra Prabhakar Gogate,(2009) 4 SCC 410* and taking note of Section 151, CPC this court concluded that in the interest of justice and to prevent abuse of process of the court, the trial court is free to consider whether it was necessary to reopen the evidence and if so, in what manner and to what extent. Further, it is observed that the evidence should be permitted in exercise of its power under Section 151 of the Code. The court should firstly award appropriate costs to the other party to compensate for the delay, Secondly, the court should take up and complete the case within a fixed time schedule so that the delay is avoided. Thirdly, if the application is found to be mischievous or frivolous, or to cover up negligence or lacunae.

12. It is pertinent to note that along with applications the defendants have produced the certified copy of Partition Deed dated 02.12.1974 which corroborates to the plaint averments. Moreover producing of document, marking of document and proving of document are different aspects. It is settled principle of law that Court has to give opportunity to both the parties to establish their case as well as defences. Hence it is appropriate to give one opportunity to the defendants to produce the said additional documents. Further the objection raised by the plaintiffs regarding production of document with respect of signature of father of DW1 is upto the defendants and this Court can't insist the party to produce the same.

13. For the reasons stated and by taking into consideration of the facts and circumstances of the case and in order to avoid multiplicity of proceedings, and to adjudicate the dispute in controversy in the present suit only, it is just and necessary to recall DW-1 for further chief-examination. If an opportunity is not given to the defendants, then it is nothing but driving the parties to another round of litigation. Therefore in order to avoid another round of litigation and to determine the real dispute between the parties, it is just and necessary to give one more opportunity. Moreover it is 2019 matter and both the parties are heavily contesting the suit.

14. In view of my discussions above, I am of the opinion that, the defendants have made out grounds to re-open the case and to recall DW-1 for further chief-examination. If DW-1 is recalled for further chief-examination, no hardship will be caused to the plaintiffs. On the other hand, if DW-1 is not recalled, then it

will caused much hardship on the defendants. With these observations, I answer the **Point No.1 in the Affirmative.**

15. Point No.2: In view of my findings given to the Point No.1 at the aforesaid manner, the applicant is entitled for the relief as prayed for. In the result, I proceed to pass the following:-

:- O R D E R :-

The applications filed by the applicant under Sec.151 of CPC and Order 8 Rule 3(a) r/w Sec.151 of CPC as IA.No.6 and 7 is hereby allowed on cost of Rs.300/-.

(Dictated to the Stenographer directly on computer, revised and corrected by me then pronounced in the open court, this the **26th day of November, 2025**)

Sd/-

(SHEMIDA.K)
I Addl. Civil Judge & JMFC
KGF.