

**IN THE COURT OF SENIOR CIVIL JUDGE AND
J.M.F.C., AT PANDAVAPURA**

Dated this the 13th day of June 2025

PRESENT

SRI. R.MAHESHA, B.A.L., LL.B.,
Senior Civil Judge And J.M.F.C., Pandavapura.

R.A.No.14/2022

Appellants : Narasimha & Others

V/s

Respondent : K.Nagaraju

PARTIES IN I.A.No.XII & XII

Applicants : Narasimha & Others

... Appellants

V/s

Opponent : K.Nagaraju

... Respondent

**COMMON ORDER ON I.A.Nos. XII and XII ON FILED UNDER ORDER
XLI RULE 27 OF CPC**

The present applications are filed by the appellants/defendant No.1 to 3 under Order XLI Rule 27 R/w Section 151 of CPC with a prayer to

permit them to produce the additional documents and to lead evidence by condone delay.

2. It is stated in the affidavits annexed to the applications that he preferred an appeal against the judgment and decree passed in O.S.363/2015 dated 2.11.2021 on the file of Hon'ble Addl. Civil Judge and JMFC., Pandavapura for a relief of permanent injunction in relation to the suit schedule property. Further he stated in his affidavit that, on 02.12.2021, it is a last day to prefer appeal before 1st appellate court, but due to his mother day and 1st appellant wife ill-health and due to Corona lock-down, it could not possible to file appeal within time. In this regard, he needs to produce some documents to show there is a bonafide reasons causing delay to file the present appeal. Now said documents are found in his house which are mixed in other documents in his house. Some documents have obtained from other departments, now said documents are available. The said delay caused due to above stated bonafide reasons, not an intentional. If this application allowed, no harm and injury would cause to plaintiff. On the other hand, if not allow, the defendants/appellants have caused great loss, it could not be compensate by any means therefore, they requested permission of this court for production of above documents and condone delay if any for production of above documents in the interest of justice and equity.

3. The respondent/plaintiff has filed objections to the above I.A.XII and XII and contended that the applications are not maintainable either in law or on facts and liable to be dismissed with cost. Further he stated in his

objections that, the appellant has not shown any good reasons for production of above documents in the present applications, the said applications apparently appears, they are liable to dismiss. The appellants/defendants have already examined before trial court and produced documents in O.S.No.363/25015, but there is no opportunity to the defendants/appellants for production of additional documents on their behalf before appellate court, Applicants have not produced any documents with regard to illness suffered by 1st appellant's wife and death of his mother. Respondent denied other affidavit averments filed by applicants and prays to dismiss the applications with exemplary costs.

4. Following points do arise for consideration :-

1. Whether the appellants/defendants has made out sufficient grounds to allow the application?
2. What order?

5. Heard both side and perused the material available on record.

6. My findings on the above points are;

Point No.1 : In the Negative,

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

R E A S O N S

7. Point No.1:- The present plaintiffs/respondent has instituted the suit against the appellant/respondent for the relief of permanent injunction restraining the defendants from interfering with his possession over the suit schedule property. In pursuance of summons issued by learned trial court, defendants have appeared and filed their written statement. Trial Court has framed issues on 21.10.2017 and learned Trial Court directed to produce documents and witnesses. Plaintiff had been examined as PW1 and produced Ex.P1 to Ex.P5 and on his behalf another witness examined as PW2. On the other hand, the defendant No.1 himself examined as DW1 and produced Ex.D1 to Ex.D7 and two witnesses are examined as DW2 and 3. It is primary burden on plaintiff to prove his possession and enjoyment of suit schedule property as on the date of filing of this suit. After contest the suit filed by plaintiff decreed on 02.11.2021. The aggrieved defendants have preferred this appeal before this Hon'ble court. The appellants/defendants have preferred these applications and annexed documents along with applications. On perusal of proposed documents, it indicates that, the defendants have produced death certificate of one Rachamma W/o Late Rayashetty. Further he has produced medical records of A.V.Hospital pertains to one Smt.Yashodha. She admitted A.V.Hospital on 13.02.2021 and discharged on 22.02.2021. After that, she regularly took treatment in the said hospital till 28.12.2022 as outpatient and inpatient. Further the appellants/respondents have produced handwritten RTC for the Sy.No.171/2A of Gummanahalli village, Chinakurali Hobli, Pandavapura Taluk, from the year 1973-74 till 1999-2000. Certified copy of IL & order, original genealogical tree affidavit,

certified copy of hissa survey atlas for the Sy.No.171/2A of Gummanahalli village, certified copy of survey sketch, certified copy of sale-deed dated 25.12.1958, endorsement issued by Tahasildar, Pandavapura Taluk dated 05.03.2022 and request application submitted by one K.R.Raju Rayashetty, Kumbarakoppalu, to the Tahasildar, Pandavapura Taluk dated 25.01.2022. The specific case of defendants/appellants before trial court is that, one Narasimhashetty having son by name Erabhadrashetty @ Sannashetty. He having wife Lakshamma and also children by name Rayashetty, Rudrashetty and Ramashetty. On 25.12.1958, the said Erabhadrashetty has purchased Sy.No.171/2 measuring extent of 12 guntas from Narasimhashetty, Narashetty, children of Galinarasimhashetty through registered sale-deed. Thereafter, the Sy.No.171 has been phoded MSM No.201/1959-60 as one 171/2A and 171/2B. Thereafter children of Erabhadrashetty @ Sannashetty by name Rayashetty, Rudrashetty and Ramashetty have divided their property on 25.04.1991. The Sy.No.171/2A and 171/2B fallen to the share of Rayashetty. After the death of Rayashetty, defendants/appellants have in possession of suit schedule. The present plaint in the above suit had not at all having any right over suit schedule property. But in order to substantiate above contentions, the defendants/appellants have produced certified copy of sale-deed dated 25.12.1958 which is marked as Ex.D1 before trial court. Certified copy of IL produced which is marked before trial court as Ex.D2, certified copy of re-survey number 171/2A, 2B which is marked as Ex.D3 before trial court. The plaintiff has produced handwritten RTC for suit schedule property from 1968-69 till 1975-76 which is marked as Ex.D4 before trial court, certified copy of RR which is marked as Ex.D5 before trial court, original copy of

Karnataka Revision Settlement Akar band which is marked as Ex.D6 before trial court. Original copy of panchayath palu-parikath dated 25.04.1991 which is marked as Ex.D7. Further in support of their case, they examined two witnesses as DW2 and DW3. They have been subjected cross-examination by counter-party. After appreciation of oral and documentary evidence placed by both parties, the said suit decreed in favour of plaintiffs on 02.11.2021. Now counsel for defendants/appellants has intend to produce same documents already marked before trial court before this court with proper application. Further more, it is relevant to note that, though appellant/defendant No.1's mother has died in the year 2021 and defendant No.1's wife has suffering from serious illness. The said medical records are not material documents to prove their possession over suit schedule property. The plaintiff has instituted suit against the defendant on 13.10.2015 and judgment pronounced by trial court on 02.11.2021. The defendants have got sufficient adjournment and time for production of documents on their behalf. The present defendants/appellants have already produced before trial court on their behalf, same documents have intends to produce before this Hon'ble court with I.A.No.XII and XIII. From this court view, the proposed documents are not necessary to decide fact in issue between parties. So under such circumstances, the proposed documents does not helpful to the case of defendants/appellants. Moreover, the defendants/appellant have failed to show satisfactory reasons before this Court what impediment caused to defendants/appellant to secure and produce said documents before Trial Court as well as while preferring the present appeal. Therefore, this Court came to clear conclusion that the defendants/appellants have not made

out good grounds to consider present application at this stage. For the above reasons, this Court answered above point **in Negative**.

8. Point No.2 :- For the reasons assigned to Point No.1, resulted in the following :-

ORDER

The I.A. No.XII and I.A.No.XIII filed by the appellants/defendant No.1 to 3 under Order XLI Rule 27 R/w Section 151 of CPC is hereby rejected.

Further, both parties are directed to address their arguments on main appeal in next hearing without fail.

Accordingly, these I.A.s are disposed off.

(Dictated to the Stenographer on Court computer, corrected and then pronounced by me in the open Court on 13th **June 2025**)

(R.MAHESHA)
Senior Civil Judge and
J.M.F.C., Pandavapura.

(Order pronounced in the open Court
vide separate Order)

ORDER

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Sr. Civil Judge and
J.M.F.C., Pandavapura.