

ORDER ON I.A.NO.IV

Vide this order, I shall decide an application filed by the plaintiff under order 12 Rule 6 R/w section 151 CPC praying to direct the defendant to produce the following documents for inspection.

1. Copy of Endorsement dated 31.07.2004
2. Copy of saguvali chit
3. Copy of details of land
4. Copy of survey sketch
5. Avahalu Thakthe

2. The plaintiff has averred in the application that this suit is filed by the plaintiff against the defendants for the relief of declaration of ownership and permanent injunction. The defendant is looking after the suit property as a care taker and the documents sought to be produced were given to the possession of the defendant to obtain the electric connection and the same were not returned to the plaintiff till this date. The said documents are necessary to prove the title of the plaintiff over the suit property, thus the said documents are to be produced before the court. If the said application is not allowed great hardship will be caused to the plaintiff and public interest will be affected. Accordingly prays to allow the application.

3. On the other hand, the defendant has filed objections contending that the application is not maintainable either in law or fact. The defendant has not followed the procedure under civil procedure code for the production of the documents. The defendant is not in the possession of any of the documents sought to be produced by the plaintiff. The

plaintiff cannot compel the plaintiff for production of the documents which are not in his custody. Hence, this application lacks merits. All other averments are denied and pray to reject the application with exemplary cost.

4. Heard the arguments and perused the materials placed on record.

5. The points that would arise for my consideration are

1. Whether the applicant/plaintiff has made out sufficient grounds to direct the defendant to produce the document sought?

2. What Order?

6. My findings on the above points are hereunder: -

Point No.1 :- In the Negative,
Point No.2 :- As per order for the following;

REASONS

Point No.1:

7. The instant case is filed for the relief of declaration of ownership and permanent injunction.

8. The defendant has stated that the documents sought to be placed on record, are not in his power and possession. Such being the situation, the court cannot compel the party to produce the documents which are not in his custody. Further, the documents sought for by the applicant are public documents. The applicant can obtain the certified copy of the same and produce before the Court. The Court cannot issue a direction to the defendant to produce the documents sought for by the applicant

without being any attempt made by the plaintiff for securing the document before filing this application. This approach also finds support from the observation made by the Hon'ble High court of the Karnataka between the parties titled as Krishna Lachayya Moger vs Mahadev Kuppayya Naik in WP No.30875/2008 (GM-CPC).

9. In view of the above discussion, I do not find any merit in the present application. Accordingly the point No.1 is answered in the Negative.

Point No 2:

10. In view of the above reasons as stated above I proceed to pass the following:

ORDER

I.A.No.IV filed by applicant/ plaintiff under order 12 Rule 6 read with section 151 of Civil Procedure Code is hereby dismissed with cost of Rs.200/-.

(Dictated to the Stenographer on computer, typed by him, revised, corrected and then pronounced by me in the open Court on this the 11th day of June, 2021.)

(NATARAJ YADAV .S)
Senior Civil Judge & J.M.F.C
H.D.Kote