

Order on I.A.No.XXII & XXIII

The application I.A.No.XXII & XIII are filed by the defendant U/O 16 Rule 6 of CPC praying for an order to summon the documents mentioned in the application from manage, Bank of Baroda, Karur Branch, Tamilnadu as well as documents from post master, Thanthonimalai Post office, Karur District, Tamilnadu.

2. Both applications are supported by the affidavit of the GPA holder of the defendant and it is sworn that the plaintiff has filed suit against defendants for the relief of declaration and possession. The plaintiff has produced bank pass book to show that he opened the savings bank account in Bank of Baroda Karur Branch as well as the savings pass book maintained in post office of Thanthonimalai post, Karur District. It is further sworn that the plaintiff has opened the said accounts with molafide intention and in order to verify the said accounts is it necessary summon the documents mentioned in the applications. Hence prayed to allow the same.

3. The counsel for plaintiff has filed separate objection to the applications and it is stated that the documents now sought for producing before the court are the personal privileged documents of the plaintiff and the same are confidential records as per the banking rules and regulations and therefore the applications are not maintainable. Hence prayed to dismiss the applications.

4. Heard the arguments of counsel for both parties.

5. The defendant has filed present applications to call for documents mentioned in the application from manager of Bank of Baroda, Karur Branch as well as post master, Thanthonimalai, Post office, Karur District. On perusal of the materials available on record, the plaintiff filed suit against defendants for the relief of declaration and possession. On perusal of the written statement filed by the defendant, she has taken up the contention that the plaintiff is different person who is not owned schedule property and the actual owner name is Muttuswamy S/o K.Nainagounder. The plaintiff in order to support his contention he produced pass book relating to Bank of Baroda, Karur Branch as well as the post office saving account relating to him. Now the defendants intends to call for the documents produced for opening of said account. On perusal of the rival pleadings of the parties, the plaintiff has taken up the contention that he being N.Muttuswamy @ Kaliyannan⁹ S/o K.Nainagounder is the owner of the schedule property and on the other hand the defendants has raised defence that the plaintiff is not Muttuswamy S/o K.Nainagounder. As it is stated above the plaintiff has produced savings account pass book relating to Bank of Baroda as per Ex.P13 and also produced the post office savings pass book before this court. Since there is dispute about the identification of the name as well as person, in order to decide the said fact the documents now sought to be produced would throw light upon the same. Therefore it is necessary to call for the

documents mentioned in the applications by the defendant.
Hence this court proceeds to pass the following:

O R D E R

The applications I.A.No.XXI & XXII filed by the defendant U/O 16 Rule 6 of CPC is hereby allowed.

Office to Issue summons to the witnesses mentioned in application to produce the documents as stated in the application if PF paid.

Await documents.

**(Sandesh Prabhu. B)
Senior Civil Judge & J.M.F.C
H.D.Kote**

Order on I.A.No.XXIV to XXVI

The application I.A.No.XXIV is filed by the plaintiff U/Sec 151 of CPC to re-open the case, I.A.No.XXV is filed U/O 18 Rule 17 of CPC to re-call PW-1 for his further examination and I.A.No.XXVI is filed U/O 7 Rule 14(3) of CPC to receive the documents produced along with application.

2. All the applications are supported by affidavit of the plaintiff and it is sworn that he now secured some documents which are essential for adjudication of the dispute between the

parties. Marking of said documents are very much necessary to prove the case. Hence prayed to allow the applications.

3. The counsel for the defendant has filed separate objection to the applications and it is stated that earlier the plaintiff has filed similar applications on 30.01.2025 and 06.03.2025. Now again the plaintiff has filed similar applications to drag on the proceedings of the case. Hence prayed to dismiss the applications.

4. Heard the arguments of counsel for both parties.

5. The plaintiff has filed the present applications to reopen the case and to recall PW-1 for his further examination and to receive the documents. On perusal of the affidavit sworn by the plaintiff there is dispute between the plaintiff and defendants in respect of identification the person and the plaintiff in order to prove his contention he intends to produce some documents before the court. By considering reasons the stated in the application opportunity should be given to the plaintiff to produce such documents and to get mark the same. The inconvenience caused to the defendant could be compensated by imposing cost. Hence this court proceed to pass the following:

ORDER

**The applications I.A.No.XXIV to
XXVI filed by the plaintiff U/Sec.,151 of
CPC, U/O 18 Rule 17 of CPC and U/O 7**

Rule 14(3) of CPC are hereby allowed with cost of Rs.250/-.

The PW-1 is recalled for his further examination and the documents produced by the plaintiff are taken on record.

**Senior Civil Judge & J.M.F.C
H.D.Kote**

Order on I.A.No.XXVII

The application I.A.No.XXVII is filed by the counsel for plaintiff U/O 14 Rule 5 of CPC to frame additional issues as stated in the application.

2. The application is supported by affidavit of the plaintiff and it is sworn that the defendant has denied the identification of the plaintiff and pleaded that the schedule property belonged to one N.Muttuswamy S/o K.Nainagounder. It is further stated that when the defendant is disputing the identity of the plaintiff, then burden upon him to establish the same. Therefore framing of additional issues is very much necessary in the present case. Hence prayed to allow the application.

3. The counsel for defendant has filed objection to the present application and it is stated that after framing of the issues both parties lead their evidence. The additional issues sought by the plaintiff does not arise for consideration and the plaintiff has not assigned proper reasons from framing the said additional issues. Hence prayed to dismiss the application.

4. Heard the arguments of counsel for both parties.

5. The counsel for plaintiff has filed by present application to frame additional issues as stated in the application. On perusal of the materials available on record the plaintiff has filed suit against defendant for the relief of declaration and possession. On perusal of the defence raised by the defendant he disputed the identity of the plaintiff and he categorically stated that schedule property was granted in favour of one Muttuswamy S/o K.Nainagounder who is not the present plaintiff before the court. On perusal of the issues framed by this court there is no issue regarding the said defence raised by the defendant. As per order 14 Rule 5 of CPC, the court can at any time, alter, amend or frame new issues if it is required for deciding the actual dispute between the parties. In the present case the defendant has disputed the identity of plaintiff. Therefore there is necessity of framing additional issue as stated by the plaintiff in the respect of existence of another person by name Muttuswamy S/o K.Nainagounder. The plaintiff also claimed to frame another additional issue which casted the burden upon the defendant that the plaintiff is Kaliyannan S/o K.Nainagounder and not N. Muttuswamy @ Kaliyannan S/o Nainagounder. On careful perusal of the issues framed by this court there is no issue regarding identification of the person which is in dispute. Therefore the proposed issued No.1 stated by the plaintiff in the application should be framed to decide the real dispute between the parties. Hence this court proceed to pass the following:

O R D E R

The application I.A.No.XXVII filed by plaintiff U/O 14 Rule 5 of CPC is hereby allowed and additional issue No.1 has been framed.

Await documents as per order passed on I.A.No.XXII & XXIII & for further evidence of PW-1.

Call on 02.04.2025

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 25th day of March, 2025)

**(Sandesh Prabhu. B)
Senior Civil Judge & J.M.F.C
H.D.Kote**