

Order on I.A.No.IX

1. The present application I.A.No.IX is filed by the plaintiff U/Sec 151 of CPC praying for an order by directing the defendants to get the retirement of their counsel by name Sri.G.N.Narayanagowda.

2. The said application is supported by the affidavit of the plaintiff and it is sworn that, the the defendant No.1 got examined before the court as DW-1 and got marked documents as per Ex.D1 to Ex.D10. The Ex.D7 is the family genealogy attested before the Notary Public of H.D.Kote by name G.N.Narayanagowda and the said advocate is representing the defendants in the present case. It is further sworn that the plaintiff intends examine said Notary Public of H.D.Kote by name G.N.Narayanagowda as a witnesses who attested the said Ex.D7. It is further sworn that the plaintiff has filed private complaint before this court against the present defendant No.1 for forgery of Ex.D7 and Ex.D10 and a FIR was registered before Saragur police station. If the application is not allowed the plaintiff would be put to irreparable loss and hardship. Hence prayed to allow the application.

3. The defendants counsel filed objection to the application and it is stated that the defendant No.1 has obtained said family genealogy to produce the same before Assistant Commissioner but his counsel due to oversight has produced the said document before this court. It is further stated that as per the information given by the defendant No.1, the Notary Public had only attested the said family genealogy affidavit and

therefore there is no need for retirement of the counsel for defendants. hence prayed to reject the application.

4. Heard the arguments of counsel for both parties.

5. The points that arise for consideration of this court are as under;

P O I N T S

Point No.1. Whether the plaintiffs have made out sufficient grounds to direct the defendants to get the retirement of their counsel by name Sri.G.N.Narayanagowda?

Point No.2. What Order?

6. The findings of this court on above points are as under:

Point No.1:-In Negative

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

R E A S O N S

Point No.1:

7. The plaintiff has filed present application by directing the defendants to get retirement from their counsel by name Sri.G.N.Narayanagowda. It is stated in the affidavit accompanying to the application that the defendants have produced Ex.D7 which is a family genealogy and said document is a forged document. The said family genealogy was attested by Notary Public namely G.N.Narayanagowda who is representing the defendants. It is also sworn that the plaintiff intended to examine said Notary Public who attested the said document. On

perusal of the materials available on record, the defendants have produced documents before the court as per Ex.D1 to Ex.D10. The Ex.D7 is the family genealogy sworn by the defendant No.1. The counsel for plaintiff has cross-examined DW-1 and elicited some facts about said Ex.D7. Further the materials available on record shows that after completion of the cross-examined of DW-1, the present plaintiff had filed private complaint against the defendant No.1 for the offences punishable under section 420, 464, 468, 471 of IPC. The same was referred for investigation to PSI of Saragur police station and the FIR is registered against the present defendant No.1. It is the contention of the plaintiff that said Ex.D7 is a forged document and the plaintiff intends to examine the Notary Public who attested the said Ex.D7 who is also the counsel for defendants. The plaintiff has filed application by directing the defendant to get retirement from their counsel since the plaintiff intends to examine the counsel appearing for defendants. If the plaintiff intends to examine the Notary Public who attested the said Ex.D7, he got every liberty to examine said witness as per the provision for CPC and Indian Evidence Act. The plaintiff has produced copy of FIR registered against defendant No.1 in FIR No.198/2023. The counsel appearing for defendants had only attested the said family genealogy and there is no bar to attest the genealogy even though the said counsel is appearing for the defendants. The said Notary Public has attested the said document and he is not responsible for the contents of said document. Therefore merely because the said Notary Public who is appearing for defendant No.1 attested the Ex.D7, this court cannot direct the defendants to get retirement of said counsel.

The defendants got liberty to engage any counsel of their choice. If the plaintiff intends to examine the said Notary Public, he is said liberty to examine him as a witness. There is no requirement of obtaining retirement of the counsel appearing for defendants. Moreover this court got no jurisdiction to direct the defendants to get retirement from their counsel. No criminal case has been registered against the said Notary Public who attested the document. Therefore there is no any merits in the present application which is liable to be rejected. Hence for the said reasons, this court answers Point No.1 in Negative.

Point No 2:

8. For the reasons discussed above, this court proceeds to pass the following:

O R D E R

**The application I.A.No.IX filed U/Sec.,
151 of CPC filed by the plaintiff is hereby
dismissed.**

No order as to cost.

For cross of DW-2 and 3.

Call on: 12.07.2024.

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 28th day of June, 2024)

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