

ORDERS ON I.A. NO.X TO XII

The applicant/plaintiff No.1 has filed the I.A. No.X U/sec.151 of CPC seeking to reopen the case to lead further evidence on plaintiff side.

The applicant/plaintiff No.1 has filed another application/I.A. No.XI U/o 18 Rule 17 of CPC seeking permission to lead further evidence on plaintiff side.

The applicant/plaintiff No.1 has also filed another application/I.A. No.XII U/o 16 Rule 1 & 2 of CPC seeking permission to furnish the witness list on behalf of plaintiff.

It is stated in the accompanying affidavit that, plaintiff No.1 has filed this suit against the defendants seeking for the relief of partition and separate possession. The plaintiff has lead evidence on her side and the case is posted for plaintiff arguments after taking the further evidence of plaintiff as nil. On the last date of hearing the plaintiff was not appeared before the Court due to her ill health. It is very much essential and inevitable to bring the witness on her side to substantiate her stand. Otherwise the defendants will escape from the clutches of law to gain unlawfully. Hence, this application is filed seeking permission to lead evidence of neighboring witness on plaintiff side. If the application is not allowed, the plaintiff will be put to great hardship and on the other hand, if the application is allowed, no hardship would caused to the other side. Hence, prays to allow the application.

On the other hand, the counsel for defendant No.21 present and orally submits that he has no objections to IA No.X to XII.

Heard the applicant counsel on IA No.X to XII, and perused the entire records.

The point that arise for my consideration is:

- 1) Whether the applicant/plaintiff No.1 has made out sufficient grounds to allow IA No.X to XII?
- 2) What order?

My findings to the above points are as follows:

Point No.1 : In the Affirmative

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

REASONS

POINT NO.1: The suit is filed by the plaintiffs against the defendants seeking for the relief of Partition and separate possession. The present application is filed by the applicant/plaintiff No.1 seeking permission to lead further evidence on plaintiff side.

The suit is filed in the year 2015. When the matter was posted for plaintiff side arguments, at this juncture the plaintiff No.1 has filed the present application seeking permission to lead further evidence of the witnesses on his behalf. If the applications are not allowed, the multiplicity of suits and proceedings would have been arise. To avoid the multiplicity proceedings it may not affect any of the party to allow the said applications

at this stage. If the applications are not allowed, the sufferer will be one of the party to this suit. Even though the case is posted for plaintiff arguments, in the interest of justice and equity and for proper adjudication of the suit, the said applications are deserves to be allowed on imposing cost. Accordingly I answer Point No.1 in the **Affirmative**.

POINT NO.2: In view of the above discussion, I proceed to pass the following:

ORDER

I.A. No.X to XII filed by the applicant/plaintiff No.1 U/sec.151 of CPC, U/o 18 Rule 17 of CPC and U/order 16 Rule 1 & 2 of CPC are hereby allowed on cost of Rs.500/- payable to TLISA, H.D. Kote.

Accordingly, order of this Court is recalled.

Call on for further evidence of plaintiff side.

Issue witness summons to the witness mentioned in IA No.XII.

Call on 14.03.2025

Civil Judge & JMFC.,
Heggadadevanakote.