

KAMS300012302020



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE
AND JMFC AT HUNSUR**

Present: Smt.Anitha, B.A. (Law) L.L.B.,
Addl. Senior Civil Judge & JMFC.,
Hunsur.

Dated this the 23rd day of April 2025.

OS No.143/2020

Plaintiffs: 1. Smt.Sundaramma, W/o Late Thimmegowda,
Aged 65 years,
2. Sri.H.T.Bhaskar, S/o Late Thimmegowda,
Aged 47 years,
Both are residing at Mardurhosur
village, Kasaba Hobli, Hunsur Taluk.

-Vs-

Defendants: 1. Smt.Rajamma, W/o Late Shivanna,
Aged 70 years,
2. Kemparajegowda, S/o Late Shivanna,
Aged 53 years,
3. Rajakumara, S/o Late Shivanna,
Aged 49 years,
All are residing at Mardur Hosur village,
Kasaba Hobli, Hunsur Taluk.
4. Ramegowda, S/o Late Shivanna,
Aged 51 years,
R/at No.3362/19, Maruthi Badavane,

Behind the College, Hunsur City.

5. Smt.Kousalya, W/o Chandregowda,
Aged 50 years, R/at Undawadi village,
Mullur Post, Gavadagere Hobli,
Hunsur Taluk.
 6. Smt.Janakamma, W/o Late Chandregowda,
Aged 68 years,
 7. Eregowda, S/o Late Chandregowda,
Aged 50 years,
 8. Devarajegowda, S/o Late Chandregowda,
Aged 46 years,
- All are residing at Mardur Hosur village,
Kasaba Hobli, Hunsur Taluk.
9. Smt.Sujatha, S/o Revanna,
Aged 42 years,
R/at Nilavagilu village, Kasaba Hobli,
Hunsur Taluk.
 10. Revanna, S/o Late Venkateshgowda,
Aged 50 years,
 11. Mallesha, S/o Late Venkateshgowda,
Aged 48 years,

Defendants No.10 and 11 are residing at
Nilavagilu village, Kasaba Hobli, Hunsur Taluk.

1.	Provision under which the application is filed	:	Under Order 8 Rule 1(a) of CPC
2.	Relief sought for	:	To condone the delay in production of the documents.
3.	The date on which the application is filed	:	03.03.2025

4.	Number of the application	:	IA No.XXIV
5.	The date on which the objection is filed by opponent	:	11.03.2025
6.	The date on which the orders passed on the said application	:	23.04.2025

ORDERS PASSED ON IA NO.XXIV

When the case is posted for further cross-examination of PW1, the learned counsel for defendants No.1 to 3, 6 to 11 filed the present application under Order 8 Rule 1(a) of CPC to condone the delay in production of the documents.

2. The application is supported with the affidavit of defendants No.7 wherein it is stated that, the plaintiffs filed the suit against the defendants for the relief of partition and separate possession in respect of the suit schedule properties. The case is now posted for arguments and on the last date of hearing defendants No.1 to 3 and 6 to 11 were unable to produce the documents, since the same have been misplaced. The said documents are very important to prove their case. They are now ready to produce the documents and the delay is for bonafide reasons and not intentional one. If the application is not allowed they will be put to great hardship. On the other-hand if the same is allowed no hardship is going to be caused to the other-side. Hence, prayed to allow the application.

3. After filing of the application the learned counsel

for the plaintiffs filed the objection contending that, the application is not maintainable under law or on facts. Already the evidence of both side has been completed and when the case is posted for arguments this application is filed. No proper grounds have been made out by defendant No.1 to 3 and 6 to 11 to produce the documents at this stage. The defendants have not stated how the documents are relevant to the case. There is no mention about the said documents in the written-statement. The application is filed to delay to proceedings. Hence, prayed to dismiss the application with exemplary costs.

4. Thereafter, heard arguments addressed by learned counsels for the plaintiffs and the defendants and perused the case papers. After hearing the arguments and on perusal of the case papers the points that arise for consideration are as hereunder:

POINTS

1. Whether defendants No.1 to 3 and 6 to 11 have made out sufficient grounds to condone the delay in production of the documents?
2. What order?
5. The findings on the above points are as hereunder:

Point No.1: In the Affirmative

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

REASONS

6. **Point No.1**:- The plaintiffs filed the suit against the

defendants seeking the relief of partition and separate possession of their $\frac{1}{2}$ (half) share over the suit schedule properties. It is to be noted that, defendants No.1 to 3 and 6 to 11 are the contesting defendants in this case. They have filed their written-statement and the issues have been already framed. The plaintiffs and defendants have adduced their evidence and when the case was posted for arguments the learned counsel for defendants No.1 to 3 and 6 to 11 filed the applications to reopen the case and to recall PW1 for the purpose of further cross-examination and to recall DW1 for further chief examination and when the case has been posted for further cross-examination of PW1, this application came to be filed.

7. By way of filing this application defendants No.1 to 3 and 6 to 11 wants to produce the wedding invitation card as well as two summons in OS No.158/1956. The plaintiffs filed the objection contending that, in the written-statement there is no mention about these documents. It is the settled principles of law that mere production of the document is not its proof. It is to be noted that, if the documents are marked through DW1, the plaintiffs will get an opportunity to further cross-examine him. If the documents are produced and marked no hardship is going to be caused to the plaintiffs, on the other-hand it will enable this court to come to a just conclusion. As such this

court comes to the conclusion that, defendants No.1 to 3 and 6 to 11 have made out sufficient grounds to condone the delay in production of the documents. Further the delay caused by the contesting defendants could be compensated by imposing costs. Hence, point No.1 is answered in the affirmative.

8. **Point No.2:** In view of the reasons discussed above this court proceeds to pass the following:

ORDER

I.A.No.XXIV filed by defendants No.1 to 3 and 6 to 11 under Order 8 Rule 1(a) of CPC is hereby allowed with costs of Rs.300/-.

Accordingly, the delay in production of the documents is condoned and the documents are received subject to payment of costs.

(Dictated to the Stenographer, transcribed and computerized by her on the computer, transcript corrected and pronounced by me in the open court on this the 23rd day of April, 2025)

(Anitha)

Addl. Senior Civil Judge and JMFC.,
Hunsur.