

KAMS500004232017



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC
NANJANGUD**

Dated this the 8th day of December 2022

Present : **Smt. B. Anupama Lakshmi**, B.A., LL.B.,
Senior Civil Judge & JMFC,
Nanjangud.

O.S./72/2017

Plaintiff : N.S.Rani

-V/s-

Defendants : Shivakumari and others

I.As.

Applicant : Karthik

4th defendant

-Vs-

Opponent : Rani

plaintiff

**ORDERS ON I.A. DATED 19.10.2022 UNDER ORDER 16
RULE 6 & UNDER ORDER 8 RULE 1 OF CPC**

The defendant No.4 has filed these I.As., seeking to summon entire set of documents filed by the testator N.N.Sakaleshappa at the time of registration of Will registered on 25.03.1996 and for condoning the delay in production of documents.

2. The plaintiffs through their counsel have filed statement of objections.

3. Heard both sides. Perused the pleadings, evidence and materials on record.

4. The point that arises for consideration is as follows:-

“Whether the documents can be summoned as prayed for and whether the delay in production of documents be condoned ?

5. The above point is answered in the **Affirmative** for the following:-

REASONS

6. The suit is for the relief of partition and separate possession of suit schedule properties. The

plaintiffs have contended that the suit schedule properties are the self-acquired properties of father of plaintiffs and defendants and they are in joint possession and enjoyment of the suit schedule properties. According to the defendants No.3 and 4, the father of the plaintiffs and the defendants on 25.03.1996 executed a Will in favour of the defendant No.4 and the plaintiffs are aware of the said Will. As per issue No.3 framed in this suit the burden is upon the defendants 3 and 4 to prove the due execution of the Will dated 25.03.1996.

7. According to the defendant No.4, the original Will is lost and he has to prove the Will. Therefore, the documents sought for may be summoned to prove the execution of the Will as the register contains signature of the grandfather of the defendant No.4. Though the plaintiffs have resisted the application by summoning the document from the office of Sub-Registrar, the plaintiffs will not suffer hardship as they will have the opportunity of cross-examining the defendants in respect of the

summoned documents and documents sought for production before the court. Since the burden is upon the defendants 3 and 4 to prove the due execution of the Will it is necessary to provide opportunity to them for production of the documents and summoning the register from the office of Sub-Registrar, Nanjangud. Hence, point for consideration is answered in the **Affirmative**. Hence, the following:-

ORDER

The I.As. Dated 19.10.2022 filed by the defendant No.4 under Order 16 Rule 6 and under Order 8 Rule 1 CPC are allowed.

Delay in production of the documents is condoned and the documents filed with the application are received on record.

The Sub-Registrar, Nanjangud is summoned to produce the entire set of documents filed by the testator N.N.Sakaleshappa S/o N.C.Nanjunda Shastry at the time of registration of the Will registered

as document No.114/95-96 and entered in
Book III at pages 223 to 226 dated 25.03.1996.

(Dictated to the directly on computer, revised, corrected and then
pronounced by me in open Court on this the 8th day of December
2022).

(B.Anupama Lakshmi)
Senior Civil Judge, Nanjangud.

**Order pronounced in the open court
(vide separate order)**

ORDER

The I.As. Dated 19.10.2022 filed by the defendant No.4 under Order 16 Rule 6 and under Order 8 Rule 1 CPC are allowed.

Delay in production of the documents is condoned and the documents filed with the application are received on record.

The Sub-Registrar, Nanjangud is summoned to produce the entire set of documents filed by the testator N.N.Sakaleshappa S/o N.C.Nanjunda Shastry at the time of registration of the Will registered as document No.114/95-96 and entered in Book III at pages 223 to 226 dated 25.03.1996.

Senior Civil Judge, Nanjangud.