

**Dated 30.08.2017**

**COMMON ORDER ON I.A.No.VII to IX**

The I.A.No.VII and VIII are filed by the plaintiff U/sec.151 of CPC to reopen and to recall the PW.1 to lead his further evidence and also filed I.A.No.IX U/o VI rule 14(3) of CPC to permit him to condone the delay in producing the documents in support of the case.

In support of the applications the plaintiff has sworn to the affidavits contending that, he has filed the suit against the defendants for the relief of declaration and consequential relief of rectification of RTC Extract. He has contended that, he has obtained the certified copy of the sale deed dated 4.11.1960 of the defendants predecessors in title and RTC Extract for the period of 1969-74 and the said documents is very much necessary to be marked in his evidence so as to prove his case and thereby prayed order accordingly to permit him to mark the said documents in support of his case.

On the other hand the defendant has filed common objection contending that, the applications are not maintainable either in law or on the facts of the case and that matter is now set down for the arguments and by permitting the plaintiff to reopen the case

would again prolong the case and thereby prayed to dismiss the application.

Heard from both side and perused the materials available on record.

The points that arise for my consideration are:

1. Whether the plaintiff has made out ground to allow the instant applications as sought for?

2. What order?

My findings to the above points are hereunder:

Point No.1: "**Negative**"

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

### **REASONS**

Point No.1: It is pertinent to note that, in the case in hand the plaintiff as well as defendants have conclude their side evidence and matter was set down for the argument on main. During the said stage, the plaintiff has come up with the instant applications with a prayer to reopen the case and to permit him to mark the documents in support of his case. He is intending to mark the certified copy of the sale deed dated 4.11.1960 and RTC Extract for period of 1969-74 pertaining to the defendants

predecessors. He is intending to establish his case by producing these documents. It is pertinent to note that, the documents which the plaintiff is intending to produce are the sale deed dated 14.11.1960 said to have been obtained by him on 9.03.2016 and certified copy of the RTC Extract said to have obtained on 25.07.2016. Admittedly he could have produce these documents before cross examining the DW.1 or he could have confronted the documents during the cross examination of DW.1. He has not made any efforts to produce these documents before the court in support of his case at relevant point of time. Infact, he has not made out any proper reasons to condone the delay in considering the said documents. Admittedly, the plaintiff has completely cross examined the DW.1 and matter is set down for the arguments. Admittedly, by directing the plaintiff to lead further evidence, it should not give room to fill up the lacuna. Admittedly the plaintiff has not made out any proper ground to allow the instant applications. It is well settled law that, the court should not permit the parties to reopen the case for filling up the latches. So therefore taking in to consideration of the reasons discussed above, I come to a conclusion that, the plaintiff has not made out ground to allow the instant applications. As such I answer point No.1 in the "*Negative*"

Point No.2 In view of the above discussion, I proceed to pass the following:

**ORDER**

The I.A.No.VII and VIII are filed U/sec.151 of CPC, I.A.No.IX filed U/o VII rule 14(3) of CPC filed by the plaintiff are hereby rejected on cost of Rs.200/-.

**(JAI SHANKAR.J)**  
**Civil Judge and JMFC**  
**Periyapatna**