

ORDER ON I.A. NO.14 AND 15.

This are the I.A.No.14 & 15 filed by the applicant/plaintiff under section 151 of C.P.C and under Order 7, Rule 14(3) read with Section 151 of C.P.C., seeking to re-call the P.W-1 for further chief of P.W-1 and permit him to file additional documents by condoning the delay in filing the same.

2. In the I.A.No.14 & 15, it is stated for the reasons mentioned in the accompanying affidavit that, he has filed the above suit for the relief of Declaration and possession. When the matter posted for further chief examination he could not able to appear before the court due to ill health. Further stated that, this court has closed the stage of further chief examination and posted the matter for cross-examination. Further stated that, he has got some of the documents recently from the court. The said documents are crucial documents to prove his case. Further stated that, he could not file said documents earlier due to the bonafide reasons and the said documents are not produced due to ill health. Further stated that, there is no hardship will be caused to the opponents/defendants in allowing the applications but on the other hand, there will be great loss and irreparable injury will be caused to him if the annexed applications are not allowed. Accordingly, prays to allow the I.A.No.14 & 15.

3. On the other hand, the learned counsel for the opponents/defendant No.1 to 3 have objected the above application on the ground that, the above applications filed by the plaintiff are not maintainable at this stage. The documents produced are not relevant to this case. The intended documents produced are the criminal documents which are not relevant to the civil case. Further contended that, the documents in the criminal proceedings are not

relevant to the civil proceedings and which are not admissible in the civil proceedings. The reasons given by the plaintiff to allow the applications are not a proper ground to allow the applications. The present applications are filed with a sole intention to drag on the proceedings. The delay and laches and non-diligence on the part of the applicant/plaintiff cannot be given benefit at the belated stage. Hence, prays to dismissal of above application.

4. Heard both sides and perused the materials available on record.

5. Now the points that will arise for my consideration are:-

1. Whether the applicant/plaintiff has made out sufficient grounds to allow I.A.No.14 & 15?

2. What order?

6. My answers to the above points are:-

Point No.1 : In the Affirmative.

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

REASONS

7. **Point No.1:-** In this case, I have completely gone through the entire suit file. This is the suit filed by the plaintiff for the relief of declaration and permanent injunction. In this case, when the case has been posted for the cross examination, applicant/plaintiff has come up with this I.A.No.14 & 15 with a prayer to recall the P.W-1 and permit him to file additional documents by condoning the delay in filing the same.

8. The learned counsel for plaintiff has argued that, he has obtained the said documents from the Court recently. Hence he could not able to produce the same at the time of evidence. Further argued that, the intending documents are the crucial documents to prove his case and the said documents are relating to suit schedule property. Further argued that, the plaintiff has filed the above suit for declaration and permanent injunction and this Court has cast the burden on the plaintiff to prove all the issues. Hence, prays to give one more opportunity to prove his case in order to avoid the multiplicity of proceedings and in the ends of justice & equity.

9. The learned counsels for defendants have argued that, the plaintiff has filed the above applications in order to fill-up the lacuna and drag on the proceedings. The documents in the criminal proceedings are not relevant to the civil proceedings and which are not admissible in the civil proceedings. Further argued that, the plaintiff has filed the above applications in order to fill-up the lacuna, it is not permissible under law.

10. After careful perusal of the entire case file and also after hearing the both sides on these I.As., The plaintiff intends to produce certain documents pertaining to criminal proceedings as alleged in I.As. Admittedly, the said documents have obtained from the court. Moreover, the plaintiff has filed the above suit and this Court has cast the burden on the plaintiff to prove all the issues. Hence, in the ends of justice and equity and in order to avoid the multiplicity of proceedings it is necessary to give another opportunity to plaintiff in order to prove his case. If the above applications are not allowed that will be caused irreparable loss and injury to the plaintiff. Moreover, the Hon'ble Apex Court in several decisions has held that, the Court may

permit the party to re-call his witness for further examination at any stage of the suit that includes even at the stage of argument. Moreover this Court is having inherent power to pass required orders for ends of justice to reopen the evidence. Further it is crystal clear that, the said inherent power can also be exercised at any stage of suit, even after closure of evidence. In the present case, the plaintiff is intending to produce the documents which are related to the criminal proceedings. The said intending documents are the Court documents. Further the defendants also having opportunity to cross-examine the witness on those documents. Therefore, I am of the opinion that, the burden is on the plaintiff to prove this case as this is the suit filed by the plaintiff for the relief of declaration and permanent injunction. Further which are relevant and which are irrelevant documents are considered at the time of judgment. The said fact has not been considered at this stage. Hence, in the interest of justice and equity and also in order to avoid the multiplicity of proceedings the sufficient opportunities are to be given to the plaintiff in this case. Thus, in the ends of justice and equity and also for the proper adjudication of the case and also in order to avoid the multiplicity of proceedings, if the above I.As. are allowed on cost, no hardship will be caused to the opponents/defendants. Hence, I proceed to pass the following:-

:: O R D E R ::

The I.A.No.14 & 15 filed by the applicant/plaintiff under section 151 of C.P.C and under Order 7, Rule 14(3) read with Section 151 of C.P.C. are hereby allowed on cost of Rs.300/- each.

The P.W-1 is recalled.

The applicant/plaintiff is hereby permitted to place the documents as prayed in I.A.No.14 & 15.

For further chief of P.W-1.
Call on: 17-12-2022.

Addl. Civil Judge & J.M.F.C.,
T.Narasipura.