

ORDERS ON I.A.No.VI.

At the stage of Further chief of D.W-1 this is the I.A.No.VI filed by the applicant/defendant No.2 under Order 8, Rule 1A(3) of C.P.C., seeking permission to file documents by condoning the delay in filing the same.

2. In the I.A.No.VI, it is stated for the reasons mentioned in the accompanying affidavit that, the plaintiff has filed the above suit for the relief of Permanent Injunction in respect of suit schedule properties. The defendants have resisted the suit by filing written statement. The plaintiff is not in possession of plaint schedule property and on the other hand defendants are in possession, enjoyment of the same. The defendants are also relying upon earlier registered documents which are in the form of Mortgage Deed, Sale Deed, Gift Deed and Partition Deed and also relying upon alienation order and other revenue documents. In order to substantiate their contention it is just and necessary to produce the documents mentioned in the list. If the permission is not granted as prayed in I.A.No.VI, great hardship will be caused to him. Accordingly, he has prayed to allow the I.A.No.VI.

3. On the other hand, the learned counsel for the plaintiff has objected the above application on the ground that, I.As. filed by the plaintiff are not maintainable under law and facts. The documents sought to be produced are not relevant documents to prove the defence raised by the defendants and with an oblique intention to mislead this court the defendants are produced the voluminous documents its shows the conduct of the parties to the suit. The defendants have filed this application in order to drag on the proceedings. Hence, prays to dismissal of above application with cost.

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

5. In this case, I have completely gone through the entire suit file. This is the suit filed by the plaintiff for the relief of Permanent Injunction. Now the case is posted for further chief examination of D.W-1. The applicant/defendant No.2 has come up with this I.A.No.VI with a prayer for production of documents.

6. After careful perusal of the entire case file and also after hearing the both sides on this I.A., I have also perused the specific provision of Order 8, Rule 1A(3) of C.P.C. The defendant No.2 is intended to produce the

documents as alleged in I.A. On the other hand, it is the specific contention of the plaintiff is that, the documents which are intending to produce by the defendant No.2 are not related to the subject matter of the suit. Hence, the defendants can not produce the documents. Further this court has not consider the objection of the plaintiff at this stage. Moreover, the contention of the plaintiff will be considered at the time of marking of the documents. Further the plaintiff is having every opportunity to cross examine the D.W-1 on those documents. Hence, the contention of the plaintiff is not sustainable in law. Therefore, I am of the opinion that the burden is on the defendants to prove their defence. Hence, the sufficient opportunities are to be given to the defendants to prove the 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 this I.A. is allowed, no hardship will be caused to the opponents/plaintiffs. Hence, I proceed to pass the following:-

:: O R D E R ::

The I.A.No.VI filed by the applicant/defendant No.2 under Order 8, Rule 1A(3) of C.P.C., is hereby **allowed**.

The applicant/defendant No.2 is hereby permitted to place the documents as prayed in I.A.No.VI.

For further chief examination of D.W-1.

Call on: 15.01.2025.

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