

ORDER ON I.A. NO.X.

This I.A.No.X filed by the applicant/defendant No.2 under Order 8, Rule 1(A)(3) R/w Section 151 of C.P.C., seeking permission for production of documents.

2. In the I.A.No.X, it is stated for the reasons mentioned in the accompanying affidavit that, plaintiff has filed the above suit against the defendants for the relief of Permanent Injunction. Further stated that, the documents sought to be produce by him is a material documents to substantiate his case and disprove the plaint averments. Further stated that, at the earlier point of time he has not produced the documents due to office work pressure. Now he is going to produce the documents which are relevant to the case on hands in order to prove his defence. The documents mentioned in the list are very much required in support of his case. If the permission is not granted as prayed in I.A.No.X great hardship will be caused to him. Accordingly, he has prayed to allow the I.A.No.X.

3. On the other hand, the plaintiff has objected the above application on the ground that, the application filed by the defendant No.2 is not maintainable either in law or on facts of the case. Further contended that, the documents relied by the defendants through the application are not relevant to the above case. The document No.1 is the certified

copy of the Resolution dated:26.03.2021, which is not admissible in evidence for want of original Resolution Book alleged to be maintained by the defendant No.2. The above suit is filed by the plaintiff on 17.04.2018 itself. As such the document No.1 is lis Pendence document created during the pendency of the above suit according to their whims and fancies to curtail the legal rights of the plaintiff over the suit schedule properties. Further contended that, document No.2 to 8 are the Death certificates of six persons of Jagajeevana Grama, who have surprisingly died after filing of the above suit, same are not concerned to the suit schedule properties not connecting to the subject matter of the above suit. Hence, prays to dismiss the above application with costs.

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. In this case, the chief examination of D.W-1 has recorded and posted for further chief of D.W-1. When the case has been posted for the further chief of D.W-1, the applicant/defendant No.2 has come up with this I.A.No.X with a prayer to condone the delay in filing the 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 1(A) of C.P.C. The defendants have intended to produce the documents as alleged in I.A. However, it is the discretionary power of the Court. On the other hand, it is the specific contention of the plaintiff is that, the documents which are intending to produce by the defendants 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 has every opportunity to cross examine the D.W-1 on those documents. Hence, the contention of the plaintiff is not sustainable in law. Further, the defendant No.2 is intend to produce certified copy of Resolution Book and Death certificates as alleged in I.A. Therefore, this court of the opinion that, the burden is on the defendants to disprove this case as this is the suit filed by the plaintiff for the relief of Permanent Injunction. Hence, the sufficient opportunities are to be given to the defendants 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 this I.A is allowed, no hardship will be caused to the opponent/plaintiff. Hence, I proceed to pass the following:-

:: O R D E R ::

The I.A.No.X filed by the applicant/defendant No.2 under Order 8, Rule 1(A)(3) R/w Section 151 of C.P.C., is hereby **allowed on cost of Rs.100/-**.

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

For further chief of D.W-1.

Call on:31.07.2024.

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