

09.02.2021

ORDER ON IA No.II

1. That, the appellants have filed the application under Order XIII Rule 10 R/w Section 151 of Code of Civil Procedure, with a prayer call for the original documents as per cover list in O.S.No.222/2014 which is pending before the Hon'ble II Addl. Civil Judge, Raichur. That, the appellant No.3 in his affidavit has contended that the trial Court while passing th Judgment in O.S.No.209/2014 had observed that, they have not produced the panchayath records pertaining to their property which is adjacent to suit property and though, they have moved the application for obtaining the certified copies of alleged documents in O.S.No.222/2014 but, the said application was rejected by the Court as the said documents have not been marked.

2. That, the appellant No.3 has further pleaded that the following documents are very much necessary to prove their case:-

a. Original Mutation Order dated:- 02.03.2012;

- b. Original Mutation Order dated:- 18.01.2012 and
- c. Original tax paid receipt for the year 2011-12 dated:- 24.01.2012.

That, the appellants have produced before this Court the Xerox copies of said documents. That, the appellant No.3 has further contended that the said documents are very much necessary for ascertaining the real question in controversy between the parties.

3. That, refuting all contentions of the appellants the respondent filed his objections to aforesaid application contending that, the alleged documents are not relevant and proper documents for fair adjudication of the matter and that the reliefs sought in said both the suit are totally different and disputes are different and in present appeal the appellants have no right to file the present application. That, the respondent in view of his aforesaid contentions has prayed for rejecting the said application.

4. That, I have heard the arguments and perused the materials placed on record. That, the following points arise for My consideration and determination:-

1. Whether the appellants have made out the grounds for allowing their application as prayed for?

2. What order?

5. That, My answer to the aforesaid points are as under:

Point No.1:- IN THE AFFIRMATIVE

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

REASONS

6. **Point No-1:-** That, the appellants have contended that for fair adjudication of the case it is very much necessary to call for alleged documents in O.S. No.202/2014 which is pending for adjudication on the board of II Addl.Civil Judge, Raichur.

7. It is pertinent to note here that, the appellants have contended that though, they have moved the application in O.S.No.202/2014 for obtaining the certified copies of the alleged documents and the same was rejected as the said documents are not marked.

8. It is pertinent to note here that, from the pleadings of the appellants it appears that they have complied with

the provisions of Sub-Rule (1) of Rule 10 of Order XIII of Code of Civil Procedure. It is pertinent to note here that, aggrieved with the Judgment and Decree passed by the trial Court in O.S.No.209/2014 the appellants have preferred this appeal. That, to ascertain the real facts if the alleged documents are called from II Addl. Civil Judge, Raichur, in O.S. No.222/2014 then no prejudice would be caused to other-side. Hence, without much discussion, Point No.1 is answered in the **AFFIRMATIVE**.

9. Point No.2:- That, as discussed on point No.1, I proceed to pass the following:-

ORDER

That the application filed by the appellants under Order XIII Rule 10 R/w Section 151 of Code of Civil Procedure, is hereby allowed.

That, no orders as to cost.

That, the office is to call for the original Mutation Orders dated:- 02.03.2012 and 18.01.2012 and original tax paid receipt for the year 2011-12 dated:- 24.01.2012.

Returnable by 15.02.2021.

(Directly dictated to the Stenographer on Computer, corrected by me and then pronounced in the open court on this the 9th day of February 2021).

(Smt. Hema Pastapur)

II Addl. Senior Civil Judge and JMFC,
Raichur.