

OS No. 60/2014/61/2014

Case called out. Learned counsel for the parties absent.

Defendant counsel did not advance for hearing on IA No.9.

Hence case is posted for order on IA No.8 and 9.

IA No.8 and 9 are one and the same.

### **Common order on IA No.8 and 9**

When the case was posted for hearing on IA No.7 at that stage, these interim applications filed by the learned counsel for the defendants under order 32 rule 15 r/w section 151 of CPC seeking prayer hold an enquiry about mental status of the plaintiff No.3 by name Shalam Nayak as per law in the interest of justice.

On the other hand learned counsel for the plaintiff files an objection to the IA No.8.

Heard on plaintiff side. Defendants counsel did not advance for hearing on IA No.8 and 9.

The following points that have arisen for my consideration are as under;

Point No.1: Whether the defendants have made out grounds in the interim applications for considering the interim applications ?.

Point No.2 : What order ?

My answers to the above points are as under;

Point No.1 : in the negative.

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

### **REASONS**

Point No.1 : This is suit filed by the plaintiffs for decree of redemption of usufructuary mortgage. When the case was posted for hearing on IA No.7 these interim applications filed by learned counsel for the defendants.

Perused the cause title of the plaint it suffice that the plaintiffs have stated that plaintiff No.3 is the mentally unsound person and he represented his elder sister by name Hasmath Begum who is the plaintiff No.2 in this case. In the suit there is no issue regarding plaintiff No.3 is the unsound person. The plaintiff No.3 represented suit by plaintiff No.2 and it is not against the interest of the plaintiff No.3. Further this suit is filed on 17-04-2017 and the present interim applications filed by learned counsel for the defendant on 21-09-2022 ie., lapse of 5 years. Further at the belated stage he has taken the contention. Further the defendant No.4 not shown the proper reasons in the interim applications. The learned counsel for the defendants has submitted the decisions of civil petition No.818/2001 between Kasturibai and others v/s Anguri Chaudhary decided on 05-02-2003 and A.F.O.D No.250/1972

decided on 20-10-1972, this court perused the these decisions and gives respect to the these decisions, these decisions are not helpful to the defence of the defendants. Thus these IAs are not allowed on cost no harm or loss would be caused to the defendants. Thus on the above said reasons and to meet the ends of justice this court answers the point No.1 in the negative.

Point No.2 : aforesaid reasons. court proceeds to pass the following;

**ORDER**

IA No.8 and 9 filed by the learned counsel for the defendant No.4 and 5 under order 32 rule 15 r/w section 151 of CPC is hereby rejected.

JMFC, Devadurga.

For cross of PW1.  
Call on 23-09-2023.

JMFC, Devadurga.