

KARN320010102017



**IN THE COURT OF I ADDL. CIVIL JUDGE & J.M.F.C.
COURT AT KANAKAPURA.**

Dated: This the 24th day of June 2025

Present

Smt. LATHASHREE B.V., B.A., LL.B.,
I Addl. Civil Judge & JMFC,
Kanakapura.

O.S No.214/2017

Plaintiffs

- 1 Smt. Sarojamma
Aged about 82 years,
W/o late. Ramu,
- 2 Smt. Sujatha
Aged about 58 years,
D/o late. Ramu,
- 3 Sri. D.R.Chandradhara
Aged about 56 years,
S/o late. Ramu,
- 4 Sri. D.R.Ravikumar
Aged about 49 years,
S/o late. Ramu,
- 5 Sri. Krishnakumari
Aged about 43 years,
D/o late. Ramu,

All are R/at No.28,
 "A" Cross Road,
 10th main, 4th block,
 Jayanagara, Bangalore – 560011.

-Vs-

Defendant

Sri. Krishna
 Aged about 65 years,
 S/o late. Karigowda,
 R/at Doddaalahalli village,
 Uyyamballi Hobli,
 Kanakapura Taluk,
 Ramanagara District.

Interlocutory Application No.XIII

Plaintiffs/ : Smt. Sarojamma and others
 Applicants
 (By Sri K.M., Adv.)

-Vs-

Defendant : Sri. Krishna
 Opponent
 (By Sri P.M., Adv.)

1	Provision under which the application is filed	:	Under Order 16 Rule 1 and 2 r/w Sec. 151 of C.P.C.
2	Relief Sought for	:	Condone the delay in filing of list of witnesses if any
3	The date on which the application is filed	:	17.06.2025

4	Number of the application	:	One
5	The date on which the objection is filed by different opponents	:	20.06.2025
6	The date on which the order was passed on the said application	:	24.06.2025

Sd/-
(Lathashree B.V.)
I Addl. Civil Judge & JMFC,
Kanakapura.

**ORDERS ON INTERLOCUTORY APPLICATION UNDER
ORDER 16 RULE 1 AND 2 R/W SEC.151 OF C.P.C.
FILED BY THE APPLICANTS/PLAINTIFFS IN THE
PRESENT MATTER**

The Advocate for applicants/plaintiffs have filed an application under Order 16 Rule 1 and 2 r/w Sec.151 of CPC to condone the delay if any in filing the list of witnesses and dispose of the case on merits in the interest of justice and equity.

2. In the affidavit annexed with the said application is that, the plaintiffs have filed the suit against the defendant for the relief of declaration and permanent

injunction and such other reliefs and it is submitted that, during the time of discussion with their counsel, they came to know that, they have not yet filed the list of witnesses in the said case and they are advised to file the same. Hence, the non filing of the same is not intentional one but for the above said bonafide reason. Further that, they have a good case both in law and on facts. Hence, prays to condone the delay in filing the application and submits if the present application is allowed, there is no injury or loss caused to the other side. On the other hand, if the application is rejected, they will be put to much hardship and great injustice, which cannot be compensated in any manner. Hence, prays to allow the application.

3. In contra, the defendant has filed objections by submitting that the said application is not maintainable either in law or on facts. Further stated that, inspite of giving sufficient opportunities they have not filed the said application at the appropriate time. Further stated that, the plaintiff filed the application in belated stage to drag on

the proceedings and also give unnecessary trouble and harassment to the defendant and the contents of the entire application does not give any meaning at all. So, viewed from any angle this application is not maintainable. If the present application is allowed, he will be put to untold hardship. Hence, prays to dismiss the application.

4. Heard both the sides.

5. The following points arise for this court consideration:

1. Whether the applicant filed application under Order 16 Rule 1 and 2 R/w Sec.151 of C.P.C. is deserves to be allowed?

2. What Order?

6. The answers to the above points are as under:

Point No.1: In the Affirmative

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

REASONS

7. **Point No.1:** The present suit is filed by the plaintiff seeking for the relief of declaration and permanent

injunction against the defendants over the suit schedule property. Now, the stage was set down leading further plaintiff evidence and at this stage the plaintiff has filed the present application which ought to have been filed at the initial stage of the case. However, it is to be noted that, as per the settled principle of law the initial burden is upon the plaintiff to substantiate the issues raised against him. Hence, an opportunity has to be given to the plaintiff to prove his case on the other hand the only objection raised by the defendants is that, there is inordinate delay in filing the present application which however can be compensated by imposing costs and by considering the present application the same would also avoid multiplicity of litigation and further delay in proceedings. Accordingly, this court is of the considered opinion that the application deserves to be allowed. ***Hence, this court answered Point No.1 in the Affirmative.***

8. Point No.2: In view of above made observations, this court proceeds to pass the following:

ORDER

The Interlocutory Application No.13 under Order 16 Rule 1 and 2 R/w Sec.151 of C.P.C. filed by the plaintiffs is hereby allowed on costs of Rs.300/-.

(Directly dictated to the Stenographer on computer, corrected, signed and then pronounced by me in the Open Court on 24th day of June 2025)

Sd/-

(Lathashree B.V.)

I Addl., Civil Judge & JMFC,
Kanakapura.