

**ORDERS ON I.A.No.23**

The defendants have filed the I.A.No.23 U/O.VIII Rule 1(A) r/w. Sec.151 of C.P.C., along with list with documents and prayed for to permit the defendants to produced the documents as mentioned in the I.A.

2. The copy of I.A., was served to the other side. The counsel for the plaintiff has filed the detailed objections and resisted the I.A., filed by the defendants.

3. Heard the arguments of both sides.

4. On perusal of the rival contentions and other materials placed on record, the following points that would arise for my consideration are :

1) Whether the I.A.No.23 filed by the defendants is deserves to be allowed?

2) What order?

5. My findings on the above points are as follows :

Point No.1 : In the Affirmative,

Point No.2 : As per the final Order,

for the following:

**REASONS**

6. **POINT NO.1:-** When the matter is set down for further chief of DW-2. In support of his case, the defendants have examined one of the witnesses as DW-2, who is the daughter of deceased Sri. Anjanappa. Sri. Anjanappa was one of the witness for the Will executed by Sri. Hanumaiah in favour of Sri. Siddappa (defendant No.1). Sri. Anjanapa died. His daughter has identified the signature of his father in the Will. In order to support his signature, she has produced the registered sale deed dated: 13.11.2013, which was executed by Sri. Mohammed Ghouse in favour of Sri. Anjanappa and his brother. DW-2 has identified his father original signature and photo. Hence, she is producing the said document. The document which is sought to be produced before this Court is very much necessary in order to adjudicate the dispute involved in the present suit. Hence, this application. The defendants have got very good case on merits.

7. On the other hand, the plaintiff has contended that, the defendants seeking permission to receive the sale deed without

assigning proper reasons, why he did not produce the same earlier at the time of filing their written statement in support of their case and what was the reason for the defendants have keep quite so far non production of the alleged Will dated: 26.11.1999, and hence the I.A.No.23/2025 filed by the defendants at this belated stage is not maintainable.

8. On perusal of the materials placed on record, admittedly it is a suit for declaration and injunction in respect of suit schedule property. To substantiate the case of the defendants is always lies upon the defendants. Under these facts and circumstances, the one more opportunity would be given to the defendants to produce the documents by condoning the delay if any. The documents produced by the defendants may be taken on record subject to relevancy of proof. If this I.A., is allowed, there is no hardship caused to the other side. For considering all these reasons, I answer point No.1 in the 'Affirmative'.

9. **POINT NO.2:-** In view of my findings on Point No.1, I proceed to pass the following :

**ORDER**

I.A.No.23 filed by the defendants is hereby allowed on payment of cost of Rs.300/-.

For cross of DW-2 and further chief of DW-1 by 09.02.2025.

**(SHIVAKUMAR.R)  
ADDL. SR. CIVIL JUDGE &  
J.M.F.C., MAGADI.**