

IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE & J.M.F.C.,

AT:MAGADI

Present:

Sri.Hanumanth Satwik., B.A, LL.M,
Addl. Senior Civil Judge & JMFC., Magadi.

DATED : THIS THE 6th DAY OF AUGUST 2021

O.S.No.418/2014

Plaintiff : Sri. Vaikunteshwara A.,
S/o G.Amresh,
Aged about 22 years,
R/at No.22, Shivanandanagar,
Moodalapalya, Bengaluru.

(By Sri. **S.V.**, Advocate)

--V/s--

Defendants : 1. M.Apramaya Murthy,
S/o late Chikkamuniswamappa
since deceased by his LR's.

1(a). Smt. Munivenkatamma,
D/o late M.Apramaya Murthy,
Aged about 58 years.

1(b). Sri. A.Manjushree Sine,
S/o late M.Apramayamurthy,
Aged about 42 years.

1(c). Sri.A.Vishwanath,
S/o lae M.Apramaya Murthy,
Aged about 39 years.

1(d). Sri.A.Raghavendra,
S/o late M.Apramaya Murthy,
Aged about 36 years.

1(e). Sri.A.Vijay Kumar,
S/o late M.Apramaya Murthy,

Aged about 32 years.

Defendants 1(a) to (e) are R/at
No.50/3, Magadi Main Road,
Bengaluru – 560 023.

2. Sri. M. Janardhana Murthy,
S/o late Chikkamuniswamappa,
Aged about 68 years,
R/at No.50, Magadi Main Road,
Bengaluru – 560 023.
3. Smt. Lakshminarayanamma,
W/o late Puttaswamappa,
D/o late Chikkamuniswamappa,
Aged about 85 years,
R/at No.42/2, 1st Main Road,
2nd Cross, Venkateswara Layout,
S.D.Palya, Bengaluru – 560 029.
4. Smt. Munithayamma,
W/o late Bhadra Shettappa,
D/o late Chikkamuniswamappa,
Aged about 80 years,
R/at No.12, 6th Block,
K.P.W.D. Quarters, Lalbagh Siddapura,
Jayanagara, 1st Block,
Bengaluru.
5. Smt. Sharadamma,
W/o Thimmarayappa Setty,
D/o late Chikkamuniswamappa,
Aged about 77 years,
R/at Taverkere Village,
Bengaluru South Taluk,
Bengaluru District.
6. Smt. Gowramma,
W/o Narayana Setty,
D/o late Chikkamuniswamappa,
Aged about 60 years,

R/at NO.44/1, 8th Cross,
Magadi Main Road,
Bengaluru – 560 023.

7. Sri.G.Manjunath @ Manjushree Shyne,
S/o late Govardhana Setty,
Since deceased by his LRs.
- 7(a). Smt Vasanth Lakshmi,
W/o late G.Manjunath @ Manjushree Shyne,
Aged about 45 years.
- 7(b). Smt. Rashmi W/o Raghu,
D/o late G.Manjunath @ Manjushree Shyne,
Aged about 25 years.
- 7(c). Smt. Ramya W/o Vinay,
D/o late G.Manjunath @ Manjushree Shyne,
Aged about 25 years.
- 7(d). Sri. Kilash @ Kiran Kumar,
D/o late G.Manjunath @ Manjushree Shyne,
Aged about 22 years.

Defendants No.7(a) to 7(d) are R/at
Behind to Ganesha Temple,
S.V.G. Nagar, Tavarekere,
Magadi Taluk, Ramanagara District.

8. Sri.G.Premkumar,
S/o late Govardhana Setty,
Aged about 48 years,
R/at Tavarekere, Magadi Taluk.
9. Sri.G.Keshavamurthy,
S/o late Govardhana Setty,
since dead by his LRs.
- 9(a). Smt. Arathi,
W/o late Keshavamurthy,
Aged about 40 years,
R/at Herohalli, Next to Police Station,

Dhaba, Magadi Road,
Bengaluru – 560 023.

10. Sri.G.Murari,
S/o late Govardhana Setty,
Aged about 37 years,
R/at No.32, Shivanandanagar,
Moodalapalya, Bengaluru.
11. Sri.G.Shantha Kumar,
S/o late Govardhana Setty,
Aged about 39 years,
M/s Manju Mahalakshmi Enterprises,
No.50/2, Magadi Main Road,
Bengaluru – 560 023.
12. Smt. G.Manjula W/o Nagaraj,
D/o late Govardhana Setty,
Aged about 55 years,
R/at Tavarekere, Magadi Taluk.
13. Smt. G.Gajalakshmi W/o Balakrishna,
D/o late Govardhana Setty,
Aged about 49 years,
R/at Govindaraju Fertilizers,
Near Doddaballapur Bus Stand,
Doddaballapur.

(Defendant No.1 by Sri. **V.N.**, Advocate)
(Defendant No.3, 4, 6 by Sri. **B.M.R.**, Advocate)
(Defendant No.2, 5, 8, 12, 9(a) & 10 ExParte)

ORDER ON IA NO. XIV

The present suit is for declaration, mandatory injunction,
permanent injunction and alternatively for possession.

2. The present applications has been filed by the plaintiff seeking permission to produce documents. The plaintiff submits that on the last date of hearing his counsel advised him to produce documents sought to be produced to establish his case. Subsequently, he obtained the documents. The documents sought to be produced are essential to adjudicate the matter effectively. In this regard plaintiff prays as above.

3. The defendants did not file objections to the application.

4. Heard arguments of plaintiff. Inspite of giving sufficeint opportunity to the defendants to address arguments, they failed and hence their arguments on the application was taken as nil.

5. Considering the application following points arise for my consideration as under.

1. Whether plaintiff has made out a case for producing the document as sought for?

2. What order?

6. My finding for the above points are as follows;

Point No.1: In the affirmative

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

REASONS

7. **Point No.1** : - It is the case of plaintiff that on the last date of hearing his counsel advised him to produce documents sought to be

produced to establish his case. Subsequently, he obtained the documents. The documents sought to be produced are essential to adjudicate the matter effectively. In this regard I have perused the application and the reasons assigned by plaintiff for producing the documents sought to be produced. Be it noted, plaintiff has every right to produce documents and establish his case.

8. Considering the application and also having regard to the reasons assigned by the plaintiff, I am of the view that opportunity should be accorded to plaintiff to produce documents. In these circumstances, I am of the further view that the right of the plaintiff to put forth his case cannot be curtailed as the same amounts to curtailing the rights of plaintiff to put forth his grievance. Considering, the applications and the objection, I am of the further view that defendants have every opportunity to cross-examine PW1 and hence test the veracity and legality of the documents produced by the plaintiff. In this circumstance, no harm will be caused to defendants if plaintiff is permitted to produce the documents sought to be produced. So also, the right of defendants to cross-examine PW1 and hence to test the legality of the document sought to be produced remains intact. This being the case if another opportunity is accorded to plaintiff to produce documents the same will meet the ends of

justice.

9. It is settled principle of law that the procedural law is hand maid of justice and procedural law should not be construed strictly so as to undermine justice. For this I rely on the decision of Hon'ble Supreme Court of India between Salem Advocates' Bar Association v. Union of India cited in AIR 2005 SC 3353 wherein it was held as below;

“The rules of procedure are made to advance the cause of justice and not to defeat it. Construction of the rule or procedure which promotes justice and prevents miscarriage has to be preferred. The rules or procedure are handmaid of justice and not its mistress”.

In view of the law on hand and considering the circumstance of the present case I am of the view that there is no impediment to allow the plaintiff to produce the documents.

10. It is to be considered that if the present application is not allowed the plaintiff cannot putforth his case and hence the inconvenience which may be caused to him is more than the inconvenience which may be caused to defendants if the application is allowed. Further, if the application is not allowed the injury which may be caused to plaintiff cannot be compensated at any cost, on the other hand the defendants have the opportunity to contest the matter

and get the same decided on merits. In these circumstances, considering the facts and circumstances of the case and for the reasons stated above and in the interest of justice and equity I decide point no.1 in the affirmative.

11. **Point No.2** : - In view of reasons on point No.1, I proceed to pass the following,

ORDER

**IA No.XIV U/o VII rule 14(1) & (3) r/w Sec.151
of CPC filed by plaintiff are hereby allowed on cost
of Rs.100/-.**

**The plaintiff is permitted to produce the
documents.**

(Dictated to the Stenographer, directly on the computer typed by him corrected by me and then pronounced in the open court on this the **6th day of August 2021.**)

**(Hanumanth Satwik)
Addl. Senior Civil Judge & JMFC.,
Magadi.**