

ORDERS ON IA No.IX

The learned counsel for plaintiff No.5 filed this application under Section 151 of CPC praying to reopen the stage.

2. The application is accompanied by an affidavit sworn by the plaintiff No.5. In her affidavit she has stated that now case is posted for her side of evidence, she intend to produce material piece of document relating to family properties as to mark as exhibits, hence, prays to reopen the stage of the case and permit her to file list of documents.

3. Per contra, learned counsel for defendant No.3 filed objection by contending that the application is not maintainable either in law or on facts. As per affidavit averments, other plaintiffs are relinquished their right in favour of Smt.Nagarathnamma who is plaintiff No.4 in this suit is not tenable one. The applicant in I.A. has produced document dated 09.03.2020 said to have been a relinquishment deed. The said document is insufficiently stamped and unregistered document. The relinquishment deed is compulsorily registerable document and it is not admissible in evidence. When the document itself is inadmissible in evidence, there is no reason to reopen the above case . No valid and genuine ground made out in the affidavit. Hence, prays to dismiss the said application.

4. I have heard the arguments on both sides and perused the materials available on record.

5. Now the points that would arise for my consideration are.

1) Whether applicant/plaintiff No.5 has made out a sufficient ground to reopen the case to mark the document?

2) What order?

6. My findings to the above points are as under:

Point No.1: In the negative,

Point No.2: As per the final order,

for the following:

REASONS

7. **Point No.1:** - The plaintiffs have filed this suit for partition and separate possession, when case was posted for cross-examination of PW-1, plaintiff No.5 come up with this application praying to permit to reopen the case to mark the document. The plaintiffs have produced one unregistered relinquishment deed dated 09.03.2020. Now the plaintiffs want to mark this document. The document dated 09.03.2020 is unregistered document. The said document is compulsorily registerable document. The plaintiffs now tried to mark the unregistered document before this court.

8. Section 17(1)(b) of Registration Act mandates that any document which has the effect of creating and taking away the rights in respect of an immovable property must be registered. Further Section 49 of Registration Act imposes bar on the admissibility of an unregistered document in respect of an immovable property and deals with the documents that are required to be registered under Section 17 of 1908 Act.

9. So, even if this Court re-open the case from the stage of cross-examination of PW-1 to

further chief-examination no purpose would be served. Hence, I answered point No.1 in the negative.

10. **Point No.2:** - In view of the reasons assigned above, I proceed to pass the following

ORDER

***IA No.IX filed by the plaintiff
No.5 under Section 151 of CPC is
hereby dismissed.***

No order as to costs.

Prl. Sr. Civil Judge & JMFC.,
Bhadravathi.

ORDERS ON IA No.VIII

The learned counsel for plaintiff No.5 filed an application under Order VII Rule 14(3) of CPC praying to condone delay in filing list of documents.

2. The application is accompanied by an affidavit sworn by the plaintiff No.5. In her affidavit she has stated that now case is posted for her side of evidence, she has sworn the affidavit on behalf of other plaintiffs. At the time of filing of suit, she could not file certain documents. Now she has traced those documents and said documents are very

material piece of evidence to prove her case. Hence, prays to permit her to file list of documents.

3. Per contra, learned counsel for defendant No.3 filed objection by contending that the application is not maintainable either in law or on facts. As per affidavit averments, other plaintiffs are relinquished their right in favour of Smt.Nagarathnamma who is plaintiff No.4 in this suit is not tenable one. The applicant in I.A. has produced document dated 09.03.2020 said to have been a relinquishment deed. The said document is insufficiently stamped and unregistered document. The relinquishment deed is compulsorily registerable document and it is not admissible in evidence. When the document itself is inadmissible in evidence, there is no reason to reopen the above case and condone the delay in production of the document. No valid and genuine ground made out in the affidavit. Hence, prays to dismiss the said application.

4. I have heard the arguments on both sides and perused the materials available on record.

5. Now the points that would arise for my consideration are:

1) Whether applicant/plaintiff No.5 has made out a sufficient ground

to condone delay in produce the document before court?

2) What order?

6. My findings to the above points are as under:

Point No.1: In the affirmative,

Point No.2: As per the final order,

for the following:

REASONS

7. **Point No.1:** - The plaintiffs have filed this suit for partition and separate possession when case was posted for cross-examination of PW-1, plaintiff No.5 filed instant application praying to permit to produce the document before this court. In her affidavit she has stated that at the time of filing of document, she has not produced the document as she has not traced the same. The said document is very important to prove her case. The defendants contended that the plaintiffs producing unregistered insufficient stamped document, said document cannot be admissible and it cannot be looked into for any purpose. No doubt, on perusal of document dated 09.03.2020, it is a relinquishment deed, it is compulsorily registerable document. Plaintiffs now want to produce this document before the court. Production of document before the court

itself is not admission of the document. The plaintiffs clearly stated that they have not traced the said document at the time of producing the other document before court. I am of the opinion that taking of this document on record, will not cause any hardship to the other side. Hence, reasons assigned by the plaintiff No.5 in her affidavit is sufficient to allow the application. Hence, I answered point No.1 in the affirmative.

8. **Point No.2:** In view of the reasons assigned above, I proceed to pass the following

ORDER

The IA No.VIII filed by the plaintiff No.5 under Order VII Rule 14(3) of CPC is hereby allowed.

List of documents filed by the plaintiff No.5 is taken on record.

Plaintiffs produced memo with relinquishment deed, it typed on Rs.502/- stamp paper and it is unregistered document. Hence, document dated 09.03.2020 is impounded.

Office is directed to send this document to Sub-Registrar Office to calculate duty and penalty.

Prl. Sr. Civil Judge & JMFC.,
Bhadravathi.