

**IN THE COURT OF THE PRL.CIVIL JUDGE & J.M.F.C.,
AT CHIKKANAYAKANAHALLY.**

Dated: This 12th day of June 2018.

Present: SMT.PRAMEELA.M, *B.Com., LL.B.*,
Principal Civil Judge & JMFC.

OS No.5/2014.

Plaintiffs:

1. Badiyanaika s/o Meghanaika,
a/a 65 years,
Resident of G.Ranganahalli village,
Kasaba hobli,
Sira taluk.
2. Narayanaika s/o Maghanaika,
a/a 60 years,
3. Chandranaika s/o Maghanaika,
a/a 55 years,
4. Nagrajanaika s/o Maghanaika,
a/a 50 years,

Plaintiffs No.2 to 4 are residents of
Ambarapura village,
Huliyar hobli,
Chikkanayakanahalli taluk,
Tumkur district.

(By Pleader **Sri.N.N.Sreedhara**)

//versus //

Defendants:

1. Shivakumar s/o Bojanna,
a/a 52 years,
Resident of Hullaekere village,
Dandinashivara hobli,
Turuvekere taluk,
Tumkur district.

2. Lakshmeesha s/o Basavaraju,
a/a 33 years,
Resident of Sasalahalli village,
Nonavinakere hobli,
Tiptur taluk.

3. Nagaraju s/o Bandaekariyappa,
a/a 40 years,
Resident of Bellara village,
Huliyar hobli,
Chikkanayakanahalli taluk,
Tumkur district.

(By Pleader **Sri.K.N.Gururaja**)

:IA.NO.XXII:

Applicant : Lakshmeesha.
-versus-

Opponents : Badiyanaika.

:ORDERS:

1. The applicant/2nd defendant filed IA.No.XXII under order 16 rule 1A r/w., section 151 of CPC with prayer to summon the documents from State Bank of India, Huliyar.
2. The application is supported with an affidavit duly sworn by the applicant/2nd defendant that, the plaintiff has filed the suit against the defendants for the relief of declaration and injunction. He filed the written statement and denied the contentions of the plaintiff. He availed loan from the State Bank of India and at the time availed loan he mortgaged the original documents with respect to his property. To

prove his defense, the said documents are very much necessary. It is further stated that, he has requested to Manager, State Bank of India, Huliyaar to return the original documents produced by him, but they refused to return the original documents with reason that loan not cleared. Hence this application. If the application is allowed, no harm or injury will be caused to other side. Otherwise he will be put to hardship. Hence, prayed to allow the application.

3. The plaintiff resists the application by filing the objection. He contended that, the defendant has not mentioned which documents he required from State Bank of India, Huliyaar. As per the stand taken by the defendant in his written statement that he obtained certified copy of the alleged documents. But now the defendant No.2 filed present application with malafide intention to protract the proceedings and to delay the disposal. That the evidence of Manager, State Bank of India, Huliyaar is not necessary to dispose the matter in between the parties. It is further contended that, the defendant has not produced document to show that he has availed loan from State Bank of India, Huliyaar. The defendant has taken so many adjournments when the case is posted for defendant evidence with intention to delay the proceedings. On the above grounds, prayed to dismiss the application.
4. Heard arguments from both sides on IA No.XXII.
5. Perused the records.
6. The following points arise for consideration of this court:-

1. *Whether the defendant has made out sufficient grounds to summon the documents from the Manager, State Bank of India, Huliya?*
 2. *If so, for what order?*
7. My findings on the above points are as under: -

Point No.1 : In the affirmative.

Point No.2 : As per final orders,
for the following-

REASONS

8. **Point No.1:** The plaintiffs filed suit against the defendants for the relief of declaration and permanent injunction with respect to suit schedule property. When the case is posted for defendants evidence the present application filed by them with prayer to summon the documents mentioned in the application from the Bank.
9. As per order 16 rule 6 of CPC,- *A party can summon some persons and direct to produce the documents by filing application. If the party has given satisfactorily reasons to summon some persons and produce the documents, then only the court can allow the application and issue summons to the said witness and directed to produce the documents as sought by the party.* In the instant case, the plaintiff filed the suit against the defendants for the relief of declaration and injunction. The defendant has filed his written statement and contended that suit schedule property originally belonged to Gowramma w/o Siddaramaiah and her sons. The three sons of Gowramma were

expired without marriage. One Bojanna had married one Nagamma. The said Bojanna and Nagamma had one son Shivakumar. After the death of Bojanna, Nagamma and his son Shivakumar and other family members sold the suit schedule property to him through registered sale deed dated 15.7.2010 and he handed over the possession on the same day. After purchase of suit schedule property, all the revenue documents stand in his name and he availed loan by mortgaging the original documents in State Bank of India, Huliya. To prove the same the above said documents are very much necessary.

10. As per the pleadings and application and documents produced by the plaintiffs and defendants, the defendants have specifically stated that suit schedule property is in possession and enjoyment of him through registered sale deed executed by sons of Gowramma. The original documents are in the State Bank of India, Huliya. To prove his defense the documents alleged by the defendant is very much necessary. The plaintiff raised the question that the evidence of Bank Manager is not required. But at this stage cannot determine the above said question. Under such circumstances, the question raised by the plaintiff is hereby sustained. By considering all the facts and circumstances of the case, the reasons mentioned by the defendant for summoning of documents from his State Bank of India, Huliya is proper and reasonable one. Under such circumstances it is necessary to provide an opportunity to summon the documents produced before

State Bank of India, Huliya. Hence, I answer Point No.1 in the affirmative.

11. **Point No.2:** In view of the above discussion, I proceed to pass the following-

ORDER

IA.No.XXII filed by applicant/defendant No.2
under order 16 rule 6 of CPC is hereby allowed.

No order as to cost.

(Dictated to the Stenographer, transcribed and computerized by him, then corrected and pronounced by me in the Open Court on the 12th day of June 2018.)

(Prameela.M)
Prl.Civil Judge & JMFC,
Chikkanayakanahalli.