

**IN THE COURT OF THE ADDL. CIVIL JUDGE &
JMFC., GUBBI**

Present: Sri. Ganesha N. M.A., LL.B.,
Addl. Civil Judge & JMFC.,
Gubbi.

Dated this the 8th of February of 2018
O.S.No. 142/2012

Plaintiff:- Honnappa

Vs.

Defendant:- C.S Ningaiah and another

**ORDER ON APPLCIATION No.5 FILED UNDER
ORDER 11 RULE 16 OF CPC**

The defendants have filed this application U/o 11 Rule 16 of CPC seeking order of this court against the plaintiff to produce the original grant certificate.

2. In the affidavit accompanying this application applicant has stated that, the plaintiff has filed this suit for declaration and permanent injunction. It is further stated that the suit schedule property has been granted to his brother's son Kumbaiah @ Honnaiah and subsequently as per the O.S. No.170/10 the suit schedule property has fallen to the share of 1st defendant and he has been in

peaceful possession in that. It is further stated that original grant certificate is necessary to submit the real facts before the court. Hence applicant prays to allow the application.

3. On the other hand plaintiff has filed objections contending that application is not maintainable in eye of law and he has already produced the certified copy of the grant certificate which has been issued by the Tahasildar. He further contended that his original grant certificate has been lost and hence he has produced certified copy of the same. It is further stated that the defendants have filed this application only to trawl on the matter. Therefore, plaintiff pray to dismiss the application.

4. Heard arguments on both sides and perused records.

5. The points that arise for my consideration are;

1) Whether the application is deserves to be allowed ?

2) What order ?

6. My answer to above points are as under;

Point No.1- Negative

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

REASONS

7. Point No.1- Undisputedly plaintiff has filed this suit against defendants for declaration and permanent injunction. The defendant No.1 filed this application seeking order of this court against the plaintiff to produce the original grant certificate as the plaintiff is claiming the ownership on that certificate. He further stated that the suit schedule property has been granted to his brother's son Kumbaiah @ Honnaiah and subsequently as per the O.S. No.170/10 the suit schedule property has fallen to his share and he has been in peaceful possession in that. It is further stated that original grant certificate is necessary to submit the real facts before the court. Per contra the plaintiff has contended that the original grant certificate has been lost and hence he has produced the certified copy of the grant certificate in support of his claim.

8. After considering the contentions of both parties and after perusing the material available on record, the applicant's claim is that he is seeking order of this court against the plaintiff to produce the original grant certificate

on which the plaintiff is claiming the ownership. The plaintiff has pleaded in his patent plaint that the original grant certificate has been lost some where about 8 years back and as such he could not able to produce the original grant certificate and resultantly he has produced the certified copy of the grant certificate. Hence relief sought in this application becomes unattainable. Resultantly application needs to be dismissed. Hence I answered point No.1 in the negative.

9. Point No. 2- In view of above discussion I proceed to pass the following;

ORDER

Interim Application No.5 filed by
applicant/defendant No.1 under order 11
Rule 16 of CPC is hereby dismissed.

(Dictated to Stenographer directly and typed by her, script corrected, signed and then pronounced by me in open court on 8th February of 2018.)

**Addl. Civil Judge &
JMFC., Gubbi.**