

IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC.,
AT PAVAGADA.

Present : Sri. V.HANUMANTHAPPA,. M.A, L.L.B.
Senior Civil Judge & JMFC.,
Pavagada

:: O.S. No.42/2017 ::

Dated this the 7th day of February 2020.

Plaintiff : Sanjeevarappa

-V/s-

Defendants : Ugrappa and others

I.A.No. 13 to 15

Applicant in IA/ Sanjeevarappa
plaintiff :

-V/s

Opponent in IA/ Ugrappa and others
Plaintiff :

:: ORDER ON I.A. No.13 to 15 ::

IA.No.13 filed Under Sec.151 of CPC to re open the case of the plaintiff and IA No.14 filed U/o 7 Rule 14 of CPC seeking permission to produced the decrements by condoning the delay and I.A.No.15 filed U/o 18 rule 17 of CPC to recall of PW-1 for further chief examination.

2. In the affidavits annexed to these applications sworn by the plaintiff has contended that, this suit filed by the plaintiff for the relief of partition and separate possession.

Even though he has lead evidence and even the case is set down for cross examination of DW-2 , recently he has produced the documents like RTC extracts and Katha extract to prove this case. These documents are very much necessary to prove his case , If these applications are not allowed , he will be put to hardship. therefore he prays for allowing the applications.

3. In the objections of the defendants, they have contended that, these applications are not maintainable either in law or on facts. The plaintiff has filed these applications to prolong the matter. The plaintiff has already lead his evidence , now the matter is posted for evidence of the defendants. The documents submitted by the plaintiff in Ex.P-2 is self explanatory that the partition has already happened and the defendants are in possession of their respective properties. There is only necessity for demarcation of the lands by surveying the same. The plaintiff has filed this suit only after surveyor had visited to the properties. The plaintiff has sworn to false affidavits. The documents sought to be produced are not necessary. The receipts produced by the plaintiff dated 30-11-2017 before institution of the suit which is mismatching with the amount mentioned in the demand register. Which in controversy of Ex.P-20. The Katha extract is not produced as contended in the application. Hence pray for dismissal of applications with the costs.

4. I have heard arguments and perused the material available on record. The following points would arise for my consideration.

1. Whether the plaintiff has made out reasonable grounds to reopen the case to lead his further chief examination?

2. What order?

5. My answer to above point as follows.

Point No. 1 : In the Affirmative

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

:: REASONS ::

.6. Point No.1 : This suit is instituted by the plaintiff against the defendants for partition and separate possession. In this case the evidence of plaintiff was completed on 18-09-2019. his evidence was commenced on 24-07-2019. the documents produced and marked on behalf of the plaintiff are Ex.P-1 to 22 out of them Ex.P-4 to 9 are the RTC extract for the year 2017-18 in respect of the suit schedule property . which are standing in the name of the plaintiff and defendants. He has also produce the Katha extract marked at Ex.P-10. Ex.P-11 to 18 are also the certified copies of record of rights and Kethuvaru of the suit schedule properties. He has also produced the tax paid receipts.

7.Now the plaintiff intends to produce the RTC extracts for the year 1966 to 2000. he has also produced the Katha extract. The documents sought to be produced are in respect of the suit schedule properties. No doubt there is delay in filing the applications but the defendants are at liberty to cross examine the witness on these documents. In order to avoid multiplicities of proceedings, it is just and necessary to allow the applications on cost. If the application allowed no hardship be caused to the defendants. hence **I answer to Point No.1 is in the Affirmative.**

8. Point No.2 :- In view of my above discussion I proceed to pass allowing.

:: ORDER ::

IA No.13 filed Under Sec.151 of CPC to re open the case of the plaintiff, and IA No.14 filed U/o 7 rule 14 of CPC and IA No. 15 filed U/o 18 rule 17 of CPC to recall of PW-1 for further chief examination , are hereby allowed with cost of Rs.250/-each.

Consequently, case of the plaintiff is reopened , documents taken on record , PW 1 is recalled for further chief examination.

(Directly dictated to the Typist on computer, typed by him, revised by me and after corrections pronounced in the open court on this the 7th day of February, 2020.)

(V.HANUMANTHAPPA)
Senior Civil Judge & JMFC,
Pavagada.

