

**ORDERS ON I.A.NO.VII FILED BY THE
PLAINTIFFS UNDER THE PROVISIONS OF
ORDER 7 RULE 14 OF CPC**

This is an application filed by the plaintiffs under the provisions of Order 7 rule 14 of CPC, seeking permission to produce the documents on the grounds that while filing the suit, the plaintiff No.2 to 6 had executed GPA in favour of their mother plaintiff No.1. There are two separate GPAs executed by plaintiff Nos. 2 to 6 in favour of their mother-plaintiff No.1. That originals of the said GPA were not produced earlier. The zerox were produced earlier. At the time of leading evidence, it is noticed that the originals were not produced in the court. The originals GPA are to be produced before the court. The documents are important documents, which is relevant in this case. But, due to oversight those documents were not produced. Delay is not intentional one, but, due to bonafide reasons. If, the application is allowed, no prejudice will be caused to the other side. Hence, this application.

2. The defendants have resisted the application by filing objection contending that the application is not maintainable either in law or facts. P.W.1 and other plaintiffs have given GPA to plaintiff No.1 to file the suit and to give evidence. The suit

was filed by the plaintiff No.1 based on the GPA. The said GPA's were not cancelled by plaintiffs, terminating the agency created in favour of plaintiff No.1. Therefore, production of GPA given to plaintiff No.1 without terminating the agency not at all permit P.W.1 to adduce evidence. The plaintiffs have not given any GPA to P.W.1 to give evidence before the court. Therefore, without terminating the GPA granted to plaintiff No.1 and without seeking permission from the court to adduce evidence, P.W.1 is not entitled to give evidence in this case. It is on these grounds the defendants have prayed for dismissal of the application.

3. I have heard the arguments on both the side and perused the records.

4. Now the points that would arise for my consideration are as under:

Whether the plaintiffs have made out sufficient grounds to condone the delay in producing documents and whether the application filed under the provisions of Order 7 rule 14 r/w sec. 151 of CPC deserves to be allowed?

5. On considering the materials placed on record, now my answer to the above point is in the Affirmative, for the following:

REASONS

6. The plaintiffs have filed this suit against the defendants, seeking partition and separate possession of plaintiff schedule properties and declaration. The defendants have

resisted the suit by filing detailed written statement. This court has framed the issues on 23.11.2018. On behalf of plaintiffs, the plaintiff No.6 has been examined as P.W.1 and got the documents marked as Ex.P.1 to 11. When, the case is set down for further chief examination of P.W.1 this present application being filed seeking production of documents.

7. According to plaintiffs, plaintiff No.2 to 6 had executed GPA in favour of their mother plaintiff No.1. The zerox copies of the documents were produced and original GPA's were not produced. At the time of leading the evidence they came to know that the original documents were not produced before the court. But, the defendants have contended that the GPA executed by plaintiff No.2 to 6 in favour of plaintiff No.1 were not cancelled and therefore, without terminating the agency, P.W.1 is not entitled to adduce evidence in this case. Under these circumstances, whether P.W.1 can give evidence without cancellation or termination of agency, is a matter which requires consideration in this case. Therefore, the documents sought to be produced under the application are very much essential and relevant for the just decision of the case and also adjudicate the real controversy between the parties. Therefore, this court is of

the considered view that if, the application is allowed by imposing some costs, then, it would meet the ends of justice. Otherwise chances of multiplicity of proceedings including wastage of cost and time of both the litigants cannot be ruled out. Therefore, for the reasons discussed above I hold that the plaintiffs had made out sufficient grounds to condone the delay in producing the documents. Hence, I answer point for consideration in the affirmative and proceed to pass the following:

ORDER

I.A.No.VII filed by the plaintiffs under the provisions of Order 7 rule 14 r/w sec. 151 of CPC is allowed with costs of Rs. 200/- to be payable to the defendants.

The delay in producing the documents is hereby condoned.

The plaintiffs are permitted to produce the documents.

List with two documents files copies served on other side taken on record.

Prl.Senior Civil Judge,
Karwar.

Call later for further chief of P.W.1.

