

ORDER ON I.A.NO.X to XI

The plaintiff has filed two separate I.A's. i.e., I.A.No.X U/O XVIII Rule 17 R/w. Sec.151 of C.P.C seeking permission to re-open the evidence (examination-in-chief), I.A.No.XI U/O.VII Rule 14 R/w. Sec 151 of C.P.C seeking permission of the court to produce some documents.

2. The defendant has orally objected to allow the IA No.X and XI.

3. Heard learned counsel for the plaintiff and defendant. Perused the pleadings and materials placed on record.

4. The point that arises for my consideration:

POINT

1) ***Whether the I.A.No.X and XI are deserves to be allowed at this stage?***

2) What order?

5. I have heard the arguments on IA.No.X to XI. I have gone through the materials available on

record. My findings to the above point is **in the Affirmative.**

R E A S O N S

6. The plaintiff has filed two separate I.A's. i.e., I.A.No.X U/O XVIII Rule 17 R/w. Sec.151 of C.P.C seeking permission to re-open the evidence (examination-in-chief), I.A.No.XI U/O.VII Rule 14 R/w. Sec 151 of C.P.C seeking permission of the court to produce some documents. These two I.A's requires common discussions and observations, therefore these I.A's are taken together for the same purpose to avoid repetition.

7. In support of the IA.No.X and XI, the plaintiff has filed separate affidavits contending that, he has amended the plaint and incorporated relief of mandatory injunction and that the defendant has taken up contention that plaintiff has not properly valued the suit and court fee paid there on is insufficient and hence, he intends to produce the valuation slip issued by competent authority to prove the valuation of the suit property and also intends to produce extract of guideline market value and estimation of the compound wall prepared by the Mahalasa Consultants, Karwar and get those

documents executed. Hence, he has filed the said applications i.e., one for reopening the case to mark the documents and another one is production of the documents. He further contended that those documents are very much necessary to prove his case. Hence, sought for allowing the application in question.

8. Learned counsel for defendant is orally objected that the application filed by the plaintiff is false, frivolous and not tenable under law and the documents sought to be produced by the plaintiff are no way helpful to decide the matter in dispute. However, plaintiff has filed the present applications to drag the proceedings. Hence, sought for allow the application in question.

9. it is pertinent to state here that, in order to prove the valuation of the property the plaintiff is relying on the documents sought to be produced by him. However, whether said document is relevant or not can be culminated only during the trial. Meantime, it is trustworthy to note that plaintiff cannot be deprived from placing any documents in order to prove his case and defendant is at liberty to cross examine the PW-1 in respect of genuineness and validity of the said documents during the course of

cross-examination. Considering nature of suit relief sought for in the suit and in the interest of justice, it is just proper to allow the application in question and no prejudice or hardship will be caused to the defendant if the application is allowed. Hence, Point under consideration is answered in the **Affirmative** and proceed to pass the following;

ORDER

I.A.No.X filed by the plaintiff U/O XVIII Rule 17 R/w Sec.151 of CPC is hereby allowed on cost of Rs.100/-.

IA no.XI filed by the plaintiff U/O VII Rule 14 R/w Sec.151 of CPC is hereby allowed as prayed for subject to payment of cost of Rs.100/-. The documents of the plaintiff is received subject to proof.

Call for further chief of PW-1 by 17-06-2023

**Prl.Civil Judge & JMFC-II
Karwar**

O.S.No.2/2015