

KAUK410006242014



**IN THE COURT OF THE CIVIL JUDGE AT: DANDELI**

**ORIGINAL SUIT No. 82/2014**

**Plaintiff: Sri. Somanna Narayan Nayak**

**-V/s-**

**Defendants: 1) Shri Ganapati Janu Bilekar**

**And another**

**ORDERS ON IA NO. VII**

The present application is filed at the stage of cross-examination of DW-1. Ld counsel for the plaintiff has filed IA No. VII U/o XI rule 14 of CPC seeking to direct the RFO Wild Life Range, Anasi, to furnish the documents as mentioned in the memo filed along with application. In the affidavit he has stated that the said documents are very much necessary to prove the case of the plaintiff. Accordingly, prayed to allow the application.

**2.** On the other hand, defendant No.1 has filed objections contending that, the plaintiff has filed the present application as an after thought to fill in the lacunas of cross-examination. Plaintiff has not made out any valid and reasonable grounds for filing the application. Plaintiff has not produced any documents

to show that he has made efforts to secure them. The documents insisted by the plaintiff are public document and the certified copies of the same can be obtained or under RTI. Accordingly, prayed to dismiss the application.

**3.** Having heard learned counsel for the parties and perusing the record, the points that arise for my consideration are as follows:-

### **POINTS**

- 1.** Whether the application filed under order XI Rule 14 of CPC deserves to be allowed?
- 2.** What order?

**4. My answer to the above points are as follows:-**

**POINT No.1** :- In the negative

**POINT No.2** :- As per the final order,  
for the following:-

### **REASONS**

**5. Point No.1:** At the outset, it is necessary to see that earlier Order XI has been substituted by the act of 4 of 2016 which has come into effect from 23-10-2015. Now the provision is under order XI rule 5 of CPC. Despite that, it is well settled principle of law that mere quoting of wrong provision in itself is not fatal to the case.

**6.** As per rule 80 of Civil Rules of Practice, a court cannot summon to any person to produce documents unless it is seen

that the efforts are made by the party to obtain the documents. Ld counsel for defendant No. 1 has rightly objected that the alleged documents are public documents. And the certified copy of the same can be obtained. But, there are no documents on record to show that the plaintiff has put in efforts to secure the same. At first, the party seeking the documents has to make out his efforts to secure the documents. Herein, plaintiff/applicant has failed to show his efforts. Without exhausting the remedy, he cannot seek the direction from this court to produce the same. Hence, for the reasons stated above, I answer point No.1 in the negative.

**7. POINT No.2:-** Therefore for the aforesaid reasons I pass the following:

**ORDER**

IA No. VII U/o XI rule 14 of  
CPC is hereby dismissed.

For further cross-examination  
of DW-1.

(Dictated to the stenographer directly on computer, typed by her, corrected by me and then pronounced in the open court on this the **09<sup>th</sup>** day of **August 2024**).