

KAUK410006242014



IN THE COURT OF THE CIVIL JUDGE AT DANDELI

Present: Smt.ROHINI D BASAPUR, LLM

Civil Judge & JMFC, Dandeli.

ORIGINAL SUIT. No 82/2014

DATED THIS THE 20th DAY OF DECEMBER 2024

Plaintiff: Shri Somanna Narayan Nayak

-V/s-

Defendants: Shri Ganapati Janu Bilekar and another

COMMON ORDERS ON APPLICATIONS ON IA NO. VIII AND IX FILED BY THE PLAINTIFF UNDER ORDER XVI RULE 1 AND 2 OF CPC AND ORDER VII RULE 14 OF C.P.C.

The plaintiff has filed the instant suit for specific performance of the suit property.

2. The plaintiff has filed the application on IA No. VIII U/o XVI Rule 1 and 2 of CPC praying to permit him to produce the list of witnesses. And IA No. IX U/o VII Rule 14 of CPC praying to produce the documents which is received by him through RTI application.

3. The plaintiff has submitted an affidavit indicating that he is now providing the list of witnesses. At the time of initiating the lawsuit, he did not include this list due to an oversight, which

was neither deliberate nor intentional but rather unavoidable. The witnesses in question are crucial for supporting his case.

4. Additionally, the plaintiff has filed an affidavit along with IA no.IX asserting that, he is presenting documents obtained through a Right to Information (RTI) application. Following the filing of the suit, he sent a letter to the Range Forest Officer (RFO) of the Wildlife Range Anashi, requesting the relevant documents concerning the felling of standing trees from Survey Number 81 of Chanakunge Anashi village. However, he has not received any documents in response. Subsequently, his attorney submitted an RTI application on October 9, 2023. The RFO of the Wildlife Range Anashi provided a photocopy of the requested documents to the plaintiff's attorney, but these copies were not certified. Therefore, the plaintiff is now presenting the documents and the letter from the RFO of the Wildlife Range Anashi. Hence, he requests that his application be granted. Accordingly prayed to allow these applications.

5. On the other hand, Ld counsel for defendant No.1 filed objections stating that, the plaintiff filed an instant application after closing his evidence and conducting a detailed cross-examination of the defendant. The plaintiff allegedly aimed to fill in the gaps in the cross-examination and after closing his side of evidence, which is not allowed in law. The documents intended to be produced are said to be old and deliberately suppressed by the plaintiff.

6. It is submitted that the plaintiff has not assigned any valid and cogent reasons for non production of the document which

was in his possession and hence on this ground the instant application is liable to be dismissed.

7. Having heard the learned Counsel for the parties the points that arise for my consideration are:

- 1.** Whether the application on IA No. VIII by the plaintiff be allowed?
- 2.** Whether the application on IA No. IX by the plaintiff be allowed?
- 3.** What order?

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

POINT No.1 :- In the Negative

POINT No.2 :- In the Affirmative

POINT No.3 :- As per the final order,
for the following:-

REASONS

9. Point No.1 and 2: Through these applications plaintiff is intending to file documents which he has obtained through RTI application. Which he submits to be crucial to prove his case. This court had rejected IA No. VII filed by plaintiff seeking to direct the concerned forest officials to produce the documents. On the ground that, the alleged documents being public documents, it can be obtained by plaintiff himself and no interference of court is needed. Now the plaintiff has produced the documents by obtaining the same through RTI.

10. From perusal of the documents produced it can be seen that, though the documents are photocopy and not certified,

the said documents are produced along with a letter made by ACFO and RFO. As such, the same can be allowed. Moreover, the presentation of the same will aid this court in finding the truth.

11. He has also sought to bring the witnesses mentioned in IA No. VIII. But, he has failed to mention for what reason the alleged witnesses are needed to prove his case. It is only mentioned that, at the time of filing of the suit he has failed to produce the list of witnesses due to ignorance. But, to allow the application it is necessary to give reasons showing the importance of the witnesses mentioned in the list in support of the case. For the reasons stated above, I answer point No.1 in the negative, point No.2 in the affirmative.

12. POINT No. 3:- Therefore for the aforesaid reasons I pass the following:

ORDER

IA No. VIII filed by plaintiff U/o XVI Rule 1 and 2 of CPC is dismissed on cost of Rs.100/-

IA No. IX filed by plaintiff U/o VII Rule 14 of CPC is allowed on cost of Rs. 500/-

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 **20th day of December 2024**)