

KAUK510023172021



ORDERS ON IA NO.IV

At the stage of cross-examination of PW.2, the defendants have filed the instant application under Order XI Rule 14 R/w. Section 151 of C.P.C to direct the plaintiff to disclose and produce all documents relating to the previous civil litigation and RTS proceedings which were pending with his uncle Sri. Yallappa Kallappa Mugali @ Kittur in respect of suit schedule property and other properties.

The defendant No.3 has filed an affidavit in support of the instant application wherein, he has stated that, the defendants have contended at paragraph No.8 of their written statement that, the plaintiff has concealed the material facts relating to concluded litigations between himself and his uncle and he has not approached the Court with clean hands. It is further stated that, even after filing of the written statement, the plaintiff has not produced the concerned document. It is further stated that, the plaintiff has pleaded in his plaint with regard to partition of suit properties between his father and uncle but, he has denied the same in his cross-examination and disclosure of said particulars and concerned records is very much relevant to decide the matter of controversy and as such, the defendants have constrained to file instant application.

On the other hand, the plaintiff has filed objections to the instant application and contended that, there are no previous

civil litigations and RTS proceedings between the plaintiff and his uncle Sri. Yallappa Kallappa Mugali @ Kittur in respect of suit and other properties and as such, question of issuance of direction to plaintiff to produce documents would not arise. Only to harass the plaintiff and to drag on the matter, the defendants have filed the instant application and the same is liable to be rejected.

Heard on both side.

The Court has gone through the entire materials.

The plaintiff has not pleaded anything about the previous litigations in his plaint and he has also not pleaded that, earlier partition has taken place through a document. When such being the case, the plaintiff cannot be directed to produce the documents relating to alleged previous litigations and alleged previous partition deed. The PW.1 in his cross-examination at page No.8 has admitted the suggestion that, after his father's death, he has filed a suit against his uncle. The said suggestion itself shows that, the defendants are having knowledge about the said litigations. When such being the case, the defendants in their application ought to have mentioned the case number. However, they have not mentioned the case number of previous litigations. Admittedly, the plaintiff has not pleaded anything about previous litigation. Merely because, the PW.1 has admitted the suggestion in his cross-examination with regard to civil suit is not sufficient to direct the plaintiff to produce the documents. If the PW.1 in his cross-examination would have deposed voluntarily in respect of alleged previous litigation then the matter could have been different. Hence, it is the defendants who

have to reveal the details of previous litigations as they have posed a suggestion to PW.1 in his cross-examination. Hence, the instant application is liable to be rejected. As such, Court proceeds to pass the following:

ORDER

I.A.No.IV filed by the defendants under Order XI Rule 14 R/w. Section 151 of C.P.C is hereby rejected.

No order as to costs.

**Civil Judge &JMFC.,
Haliyal.**