

07-09-2021

ORDER ON I.A.NO.IV

Learned counsel for the appellant has filed I.A.No.IV under Section 151 of CPC seeking permission to offer security in compliance of the order passed by this court dated 19-04-2021.

Opposing the said application learned counsel for the respondent has filed objection statement.

Heard the learned respective counsels and perused the materials.

It is submitted by the learned counsel for the appellant that the husband of the appellant has been critically ill and has been in death bed, hence she could not raise the funds despite sincere efforts being made to deposit the amount and that now she has now decided to offer security to the court of her house and the site in Sy.No.461 measuring 0.05 acre of Karkala Kasba Village, the value of which is not less than Rs.18,00,000/- at the rate of Rs.3,00,000/- per cent in the locality and that due to Covid Pandemic her health condition was also not good which prevented her from offering security in time before this court. Hence submitted to accept the security by condoning the delay.

Learned counsel for the respondent by filing objection has submitted that reason given by the appellant in her affidavit is not supported by any document, hence the appellant has not

assigned any acceptable reasons, hence to reject the application.

On perusal of the materials, this court vide order dated 19-04-2021 has passed order on application filed under Order 41 Rule 5 of C.P.C., by allowing the application, thereby the operation of Judgment and decree dated 16-03-2020 passed in O.S.No.48/2016 on the file of II Additional Civil Judge and J.M.F.C.,Karkala ordered to be stayed subject to the condition of appellant depositing entire decretal amount or to furnish security to the said amount within 8 weeks from the date of order. As observed earlier, though the order was passed on 19-04-2021 and 8 weeks time was granted to the appellant either to deposit the entire decretal amount or to furnish security, it is after lapse of nearly 2 ½ months from the date of expiry of the time fixed by this court, the appellant has come up with the present application by offering surety in compliance of the order passed by this court. When the appellant

in her affidavit has categorically stated about the ill-health of her husband, so also of her ill-health, this court finds it just to accept the security offered by the appellant by condoning the delay. Accordingly the following:-

ORDER

I.A.No. IV filed by the appellant under Section 151 of C.P.C., is allowed on cost of Rs.300/-.

The security offered by the appellant i.e., Saguvali chit and R.T.C. of the property bearing Sy.No.461/1 measuring 0.05 acre of Karkala Kasba Village is accepted.

Issue direction to the Tahsildar Karkala to make necessary entries in the RTCs of the aforesaid property accordingly.

(Roopashri)

Senior Civil Judge & ACJM Karkala.