

KAVN300019162016



IN THE COURT OF THE CIVIL JUDGE & JMFC.,

AT: HAGARIBOMMANAHALLI

DATED THIS THE 03RD DAY OF FEBRUARY 2026

: **PRESENT:**

SRI.SAYED MOHIUDDIN URF KHAWAJA PEERAN., BA.LLB.,(Spl.)

CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.

O.S.No.211/2016

PLAINTIFF/s : **Sri. Badiger Dodda Veerappa**
S/o Veerabhadrappe,
Aged about: 70 years, Occ: Agriculturist,
R/o Hosakeri Village,
H.B.Halli Taluk & Vijayanagara District.

Vs

- DEFENDANT/s :** 1. **Smt. Kanamadagu Nagamma**
W/o Sharanappa
Aged about: 35 years,
R/o Hosakeri Village,
H.B.Halli Taluk & Vijayanagara District.
2. **The PDO, Gramapanchayathi**
Dasamapura Village,
H.B.Halli Taluk & Vijayanagara District.
3. **The PDO, Gramapanchayathi**
Hanasi Village,
H.B.Halli Taluk & Vijayanagara District.

I.A.No.XI and XII

APPLICANT/PLAINTIFF: **Sri. Badiger Dodda Veerappa**
(Rep. by Sri.**C.B.R.**, Advocate)

V/s

**RESPONDENT/DEFENDANT : Smt. Kanamadagu Nagamma
W/o Sharanappa & Others**

(Defendant No.1 Rep. by Sri.**A.C.S.**, Advocate)

(Defendant No.2 and 3 Exparte)

ORDER ON I.A.No.XI and XII

The plaintiff has filed the present I.A.No.XI under Order XVI Rule 14 and I.A.No.XII U/Sec.151 of CPC to issue summons to the PDO Gramapanchayathi, Dashamapura and PDO Gramapanchayathi, Hanasi to produce the documents of suit schedule property and also for the purpose of marking the xerox copy of proceeding dated 13.05.1981 of the Executive Officer, H.B.Halli.

2. In the accompanying affidavits to the said I.A.s it is stated by the plaintiff that, he has filed the present suit against the defendants for the relief of declaration of title and Permanent Injunction with respect of suit schedule property. He has produced the xerox copy of the original proceedings dated 13.05.1981 of the office of Executive Officer, H.B.Halli. He has not produced the certified copy of the said document. On the basis of original

document records of the suit schedule property are entered in the name of plaintiff. He has made defendant No.2 and 3 are the formal parties to the suit. They have not filed any written statement and not produced any documents before the Court. It is just and necessary to get marked, the said xerox copy through the concerned PDOs. Hence he prays to issue the summons the witness to produce the necessary documents before the Court.

3. To the said I.A., the defendants have filed the objections and denied the case of the plaintiff and further contended that, with an intention to drag on the proceedings the plaintiff has filed the present application. No proper reasons are assigned in the application, hence he prays to dismiss the applications.

4. Heard the arguments and perused the records.

5. The following points arise for my consideration:

1 . Whether the plaintiff has made out proper grounds to allow the said IA No.XI and XII?

2 . What order?

6. My answers to the above points are as under:

Point No.1 : In the **NEGATIVE**

Point No.2 : As per final order for the following: -

R E A S O N S

7. POINT NO.1: The present suit is filed by the plaintiff against the defendants for the relief of permanent injunction with respect of suit schedule property. When the case was posted for arguments on merit the plaintiff has filed the present applications to issue summons to the PDO of Gramapanchayathi, Dashamapura and PDO of Gramapanchayathi, Hansi to produce the documents with respect of suit schedule property and to issue summons for the purpose of marking of the photo copy of proceedings dated 13.05.1981. In the present applications the plaintiff has not stated what are those documents which he willing to call from the above said authorities. The plaintiff in the applications not stated anything that what effort he has made to obtain the documents from the concerned authorities. The plaintiff is prays to issue summons to the concerned Gramapanchayath authorities for the purpose of marking of the xerox copy of proceedings dated 13.05.1981. On going through the same it appears that, the plaintiff is willing to mark the above said xerox copy of the proceedings from the witnesses of the Schedule of I.A.No.11. The

plaintiff has produced the xerox copy of the proceedings. The xerox copy of the document is inadmissible in evidence which cannot be marked in evidence. The plaintiff in the applications not stated anything that what effort he has made to obtain the certified copy of the above said proceedings. Without making such effort the plaintiff has filed the present application prays to issue summons to the above said authorities to produce the documents and give evidence in the present suit. As stated above the plaintiff in his application has not mentioned any specific documents which he is willing to call from the concerned authorities. In the accompanying affidavit to the I.A. the plaintiff has not specifically mentioned that what effort he has made for obtaining the certified copies of the above said documents. If the certified copies are not suffice for the purpose of the suit then only it is necessary to call the original records from the public authorities. The plaintiff is willing to call the documents of suit schedule property. But he has not specifically stated that why the certified copies of the said documents are not sufficient for the case. Further not stated anything in the affidavit that what is the necessity to call the above said records from the concerned authorities.

8. It is relevant to note that the plaintiff in his affidavit has stated that he has produced the xerox copy of the proceedings dated 13.05.1981 as original was lost and further stated that the proceedings dated 13.05.1981 is not available in the office of the Executive Officer, H.B.Halli. The plaintiff has not produced any such endorsement issued by the concerned authorities.

9. The plaintiff has never stated that he has make an effort for obtaining the certified copies of the said documents. Further he has not stated anything that why the certified copies are insufficient for his case. The plaintiff has not produced any endorsement before the Court issued by the concerned authorities or public authorities that, the certified copies of the above said documents cannot be issued under law and not produced any endorsement for rejection of any prayer for issuance of certified copies. Further the plaintiff has not produced any endorsement before the Court issued by the concerned authorities that they have unable to issue the certified copy of the said proceedings.

10. Section 76 of Indian Evidence Act provides that certified copy of public document are admissible in evidence. Section 79 of

Indian Evidence Act provides for presumption as to genuineness of the certified copies. Considering the above provisions of law when the certified copy of the document is sufficient the necessity for calling upon the original document does not arise. It is for the person who seeks to call for original document to establish that the certified copy is insufficient for the peculiar requirement of the case, if such specific requirement is not fulfill it would be unjust and improper to direct a public officer to produce a record maintain by him.

11. If public document is summoned it has to be return back as earlier as possible as contemplated under Rule 87 and 88 of the Karnataka Civil Rules of Practice 1967. Therefore, when the records are in custody of the public officer Rule 80(2) of the Karnataka Civil Rules of Practice 1967 mandates that any application to summons such record shall be supported by affidavit stating that - The document which is required to be produce, its relevancy to the suit, why the certified copy would not meet the purpose, whether the application for the certified copy is filed and what was its result. The above said contents shall be specifically

stated in the application. Similarly under Rule 80(3) of the Karnataka Civil Rules of Practices stipulates that unless the Court considers that the production of original document is necessary or that an application for certified copy though filed but not granted, no Court shall issue summons for production of a public document from the records in the custody of public officer. The plaintiff has failed to made out sufficient grounds to allow the said applications. Under such circumstances, I am of the opinion that the application filed by the plaintiff is not maintainable. On the basis of above reasons and discussions, I answer **Point No.1** in the **NEGATIVE**.

12. Point No.2:- For the aforesaid reason and discussions made above, I proceed to pass the following:-

ORDER

The I.A.No.XI Under Order XVI Rule 14 and I.A.No.XII U/Sec.151 of CPC filed by the plaintiff is hereby dismissed.

*(Dictated to the Stenographer, transcribed and computerized by her, corrected by me, and then pronounced in the open court on this the **03rd** day of February 2026.)*

(SAYED MOHIUDDIN URF KHAWAJA PEERAN)
Civil Judge & JMFC., Hagaribommanahalli.