

ORDERS ON IA NO.XVII

The plaintiff has filed this application U/o 16 Rule 5 and 6 R/W Sec. 151 of CPC seeking call for the records from Tahasildar, Nidagundi pertains to Sy.No.118 of Hireasangi village in the ends of justice.

2. In support of it, the plaintiff has sworn to his affidavit stating that he has visited the Office of Tahasildar, Nidagundi 4-5 times seeking documents pertains to merger of Sy.No.140 and 141 in Sy.No.118 but he has not secured those documents. Even, he has applied under RTI but then also he has not secured those documents. He is old age person and he find difficulty in visiting said office oftenly, as such he prayed to allow the application.

3. To oppose the application, the defendant No.1, 2, 4 to 8 filed their objection contending that the application is not tenable either in law or on facts. They also contended that the documents pertaining to Sy.No.118, 140, 141 of Hireasangi village are available in Tahasildar Office, B.Bagewadi along with connected mutation entries. The plaintiff without applying those documents from proper office has filed this untenable

application only to drag the matter. Hence, they prayed to reject the application. The defendant No.3 filed memo stating no objection to the present application.

4. Heard both sides. The Advocate for plaintiff has also filed written arguments, perused the material available on record.

5. Now, the points that would arise for the consideration of this court are as follows:-

1) Whether the plaintiff has made out grounds to allow the IA No.XVII?

2) What order?

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

Point No.1: In the negative.

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

REASONS

7. **Point No.1:** The Advocate for the plaintiff contended that the plaintiff has filed this suit for partition and separate possession. The record of right of Sy.No.118 is very much necessary document to be produced in this case but the concerned Tahasildar has not furnished the said document as well as the mutation entry pertains to the said land. Several attempts of plaintiff to secure the copies of said document were went vain, so he has filed this application

seeking direction to the Tahasildar, Nidagundi to produce the said documents.

8. Per contra, Sri. N.B.Kulageri, Advocate for defendants argued that the suit is of the year 2011 and is filed for seeking partition. The plaintiff without obtaining the concerned records has filed this application only to drag the matter, as such the present application is not maintainable. He also contended that the documents sought under present application are available with the office of Tahasildar, B.Bagewadi but not before the office of Tahasildar, Nidagundi. Therefore, the plaintiff can very well produce the certified copies of the same but without doing so he has filed this untenable application. Hence, he prayed to reject the application.

9. Having heard the arguments from both the sides and on perusal of the written arguments, admittedly the present suit is one for partition and separate possession filed by the very plaintiff who has filed the present application. On perusal of the records admittedly this is a old suit and still the evidence of plaintiff is not yet over. It is needless to say that when the party approaches the Court for certain relief it is his duty to produce all necessary

documents in support of his case. Here it is strange that the plaintiff is seeking direction to the Tahasildar to produce the record of rights and mutation entries etc. but they can very well available by applying for its certified copies.

10. The contention of the plaintiff that he has failed to secure those documents under RTI Act also. In that event, the separate Forum is made under the Right to Information Act to redress the grievance of the aggrieved parties. The plaintiff ought to have approach the said Forum against the erring officials in not providing the documents sought for by him. Therefore, when the Advocate for defendants clearly contending that the certified copies of the same are available under office of Tahasildar, B.Bagewadi then what prevented the plaintiff to approach the said office and obtain the certified copies of the same. On perusal of the records produced by the plaintiff it is not forthcoming that the plaintiff has approached the office of Tahasildar, B.Bagewadi for the certified copies of the documents sought for under the present application. So, I am of the considered opinion that the plaintiff without approaching the office of Tahasildar, B.Bagewadi for getting certified copies of the documents what he intends to be

produced before this Court, simply filed the present application seeking direction to the office of Tahasildar, Nidagundi which is not proper. So, I have not find any merits in the present application. On the other hand, the contention of the Advocate for defendants that this application has been filed only to drag the matter cannot be ruled out. Hence, the plaintiff has not at all made out any grounds to allow the present application, as such I answer above point No.1 in the negative.

11. Point No-2: For the foregoing reasons, I proceed to pass the following:

ORDER

IA No.XVII is hereby rejected.

For further chief of PW-1.

Call on:

Addl. Senior Civil Judge
Basavana-Bagewadi.