

Order passed below Exh. 172

01. Present application is filed by defendant No.3/1 to 7 to call the record and proceedings of File No. 2011/जमा/कावी/७ from the Tahasil office, Shirur Anantpal.

02. In short, it is the contention of defendants that present suit is filed to set aside the order of Tahsildar passed in above said matter. Therefore, for the cross-examination of the plaintiff above said file is necessary before the Court. It will be helpful to verify the facts and truthfulness. Hence, prayed to allow the application.

03. The plaintiff filed say and opposed the application contending that contents of the order of Tahsildar is evident about the application filed by other villagers. The present suit is filed to cancel the order of Tahsildar.

04. Heard both the parties. Considering the prayer of the defendants, it is necessary to see whether the present application filed by them is as per the provisions of law. As per Order XIII Rule 10 (1) of the CPC, the Court can call the papers from its own record or from the other Courts to inspect the same. But so as to call the record under Sub Rule 1 of Rule 10 there must be compliance of Sub Rule 2 of Rule 10 of Order XIII of the CPC. As per sub Rule 2, it is mandatory to file the affidavit with every application made under Rule 10 of Order XIII of the CPC. There must be recitals contending how the record is material and how the

party cannot obtain the copy of the record without reasonable delay or expenses and compliance of both the provisions is necessary. The same rules are applicable to the other public record also, in view of para No. 129 of the Civil Manual.

05. So far as these mandatory provisions are concerned, in present matter, the application is not supported with the affidavit contending the recitals as required under Sub Rule 2 of Rule 10 of Order XIII of the CPC and on this ground itself the applications deserves to be rejected, as no material is produced on record supporting with the affidavit of defendants.

06. Further, defendants by way of this application wants to call the above referred file from Tahasil office. Defendants can obtain the certified copies from Tahasil office and produce the same in the Court. Therefore, I do not found any substance in the present application and the application is liable to be rejected. Hence, I pass following order,

ORDER

Application is rejected.

Nilanga.

Date : 04.01.2020.

Civil Judge Senior Division
Nilanga.