

ORDER BELOW EX. 18
(Passed On 21st September 2023)

1. This is an application for seeking permission to produce document on record mentioned at Serial No. 1 at Ex. 19 preferred by claimant.

2. Perused the application and read the reply. I have heard Mr. S.P. Ghogare learned counsel for claimant and Mr. A.S. Kulkarni learned A.G.P for respondent No. 1 and 2.

3. Mr. Ghogare learned counsel for claimant submitted that claimant has filed present reference proceeding against respondents. Mr. Ghogare submitted that he intends to file document on record mentioned at Serial No. 1 at Ex. 19. Mr. Ghogare submitted in absence of said documents on record, claimant would suffer irreparable loss. Mr. Ghogare submitted in consonance to his application and prayed to permit claimant to file document mentioned in application at Ex. 19 on record and accordingly prayed to allow the instant application.

4. Mr. Kulkarni learned counsel for respondent No. 1 and 2 vehemently opposed the instant application and submitted that the instant application at this stage is not maintainable. Mr. Kulkarni submitted that claimant is negligent and careless in the instant matter and presently matter is fixed for evidence of claimant but to prolong the matter the instant application is filed. Mr. Kulkarni submitted that claimant had sufficient opportunity to file

his document on record. Mr. Kulkarni submitted that present application is filed with ulterior motive just to harass respondents. Mr. Kulkarni submitted in consonance to his reply and prayed to out rightly reject it with heavy cost.

5. Order XIII Rule 1 of Civil Procedure Code, 1908 reads as under:-

Rule 1:- Original documents to be produced at or before the settlement of issues

(1) The parties or their pleader shall produce on or before the settlement of issues, all the documentary evidence in original where the copies thereof have been filed along with plaint or written statement.

(2) The Court shall receive the documents so produced:

Provided that they are accompanied by an accurate list thereof prepared in such form as the High Court directs.

(3) Nothing in sub-rule (1) shall apply to documents-

(a) produced for the cross-examination of the witnesses of the other party; or

(b) handed over to a witness merely to refresh his memory.

6. It is pertinent to mention that no prejudice as such would be caused to respondents at this stage since matter

is at the stage of evidence of claimant and the said document ought to be filed on record would be necessary for knowing the factual position of suit land. The document which ought to be produce on record is required for fair adjudication of matter on merits. On the basis of arguments of rival sides, applying the mandate of Order XIII Rule 1 of C.P.C, I am of the opinion that instant application needs to be allowed in the interest of justice. In the result, I am inclined to pass following order.

ORDER

1. The application at Ex. 18 is allowed.
2. Matter to proceed further.

Place:- Kallam

Date:- 21/09/2023

(N. A Ingley)
Civil Judge Senior Division
Kallam