

ORDER BELOW EX. 77
(Passed On 23rd October 2024)

1. This is an application for seeking permission to produce documents on record mentioned at Serial No. 1 & 2 at Ex. 78 preferred by plaintiff.

2. Perused the application and read the reply. I have heard Mr. V.V. Kawade learned counsel for plaintiff and Mr. Mr. R.S. Kulkarni learned counsel for defendants.

3. Mr. Kawade learned counsel for plaintiff submitted that plaintiff has filed present suit for seeking declaration and perpetual injunction against defendants. Mr. Kawade submitted that he intends to file documents on record mentioned at Serial No. 1 & 2 at Ex. 78. Mr. Kawade submitted in absence of said documents on record, plaintiff would suffer irreparable loss. Mr. Kawade submitted in consonance to his application and prayed to permit plaintiff to file document mentioned in application at Ex. 78 on record and accordingly prayed to allow the instant application.

4. Mr. Kulkarni learned counsel for defendants vehemently opposed the instant application and submitted that the instant application at this stage is not maintainable. Mr. Kulkarni submitted that plaintiff is negligent and careless in the instant matter and presently matter is fixed for hearing but to prolong the matter the instant application is filed. Mr. Kulkarni submitted that

plaintiff had sufficient opportunity to file their documents on record. Mr. Kulkarni submitted that present application is filed with ulterior motive just to harass defendants. 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 defendants at this stage since matter is at the stage of hearing and the said documents ought be

filed on record would be necessary for knowing the factual position of suit. The documents 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. 77 is allowed.
2. Matter to proceed further.

Place:- Kallam

Date:- 23/10/2024

(N. A Ingley)
Civil Judge Senior Division
Kallam

CERTIFICATE

I affirm that, the contents of this P.D.F. file Judgment / order are same, word to word, as per the original Judgment / order.

Name of Stenographer	-	S.R. Kale Stenographer (Grade-II)
Court	-	Civil Court, Senior Division, Kallam.
Date	-	23-10-2024
Order signed by the Presiding Officer on	-	23-10-2024
Order uploaded on	-	23-10-2024