

ORDER BELOW EX. 38
(Passed On 17th January, 2025)

1. This is an application for seeking permission to produce documents on record mentioned at Serial No. 1 & 2 at Ex. 39 preferred by non-applicant No. 5 & 6.

2. Perused the application and read the reply. I have heard Mr. A.A. Payal learned counsel for applicant and Mr. B.V. Chonde learned counsel for non-applicant No. 5 & 6.

3. Mr. Chonde learned counsel for non-applicant No. 5 & 6 submitted that applicant has filed present proceeding for Under Order 39 Rule 2B against non-applicants. Mr. Chonde submitted that he intends to file documents on record mentioned at Serial No. 1 & 2 at Ex. 39. Mr. Chonde submitted in absence of said documents on record, non-applicant No. 5 & 6 would suffer irreparable loss. Mr. Chonde submitted in consonance to his application and prayed to permit non-applicant No. 5 & 6 to file documents mentioned in application at Ex. 39 on record and accordingly prayed to allow the instant application.

4. Mr. Payal learned counsel for applicant vehemently opposed the instant application and submitted that the instant application at this stage is not maintainable. Mr. Payal submitted that non-applicant No. 5 & 6 are negligent and careless in the instant matter and presently matter is fixed for evidence but to prolong the matter the instant application is filed. Mr. Payal submitted that non-applicant

No. 5 & 6 had sufficient opportunity to file their documents on record. Mr. Payal submitted that present application is filed with ulterior motive just to harass applicant. Mr. Payal 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 applicant at this stage since matter is

at the stage of evidence 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. 38 is allowed.
2. Matter to proceed further.

Place:- Kallam

Date:- 17/01/2025

(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	-	17-01-2025
Order signed by the Presiding Officer on	-	17-01-2025
Order uploaded on	-	18-01-2025