

Order below Exh. 88 in RCS 25/2013
Mahadevappa Sankh & Ors Vs Sunil Sankh & Ors

The application is under Order 18 Rule 17 of the Code of Civil Procedure, 1908 (the CPC) on behalf of defendant 1.

2 Perused the application, say, and the record.

3 None present for the parties, whenever called out for hearing.

4 The application is premised on the ground, that defendant 1 is resident of Karnataka and there was some miscommunication as to the date. The defendant 1 intends to lead evidence. No prejudice would be caused to the plaintiff. Hence, the instant application be allowed.

5 The application is opposed on the ground, that on 16/01/2026 the plaintiff has been closed his evidence. Thereafter, defendant 1 failed to lead evidence. Hence, the application opposed.

6 The suit is for partition, and other consequential reliefs. The suit is of 2013. Admittedly, defendant 1 has not filed affidavit in lieu of examination in chief or proper steps to lead evidence as of today also no such evidence has been filed on record. However, considering the nature of the suit, and the defence raised, it would be just and proper to allow final opportunity to the other side. The other side would have an opportunity to cross examine the witness, if produced. The right may not be foreclosed. The proceedings may be controlled. The inconvenience caused may be remedied. Costs follows the event. Hence, the following

Order

The application is allowed subject to costs of Rs. 300/- payable to the other side forthwith.

2 The suit is listed on day to day basis.

3 The defendants may produce evidence, if required.

Jath
Date:-24/02/2026

(Sanjay P. Bunde)
Jt C.J.J.D, Jath