

Order on I.A.No.30

This application is filed by the learned counsel for Defendant No.6 u/o.VIII Rule 1(A) r/w.sec.151 of C.P.C, seeking permission to produce the certified copies of the documents in the interest of justice. On the other hand, the very application is objected by learned counsel for the Plaintiff and prayed to dismiss the same.

2. In the accompanying Memorandum of facts, the learned counsel has stated that he is representing the case on behalf of Defendant No.6 as well as Defendant Nos.1, 7 to 10. Already they have produced the xerox copies of the proposed documents with the permission of this court. Now, they are producing certified copies of the same as per the list, which are essential for adjudication of the matter in dispute. Therefore, it is prayed to allow the application in the interest of justice.

3. For the above said application, the learned counsel for the Plaintiff got filed the objections contending that the application is not maintainable either in law or on facts, which is not accompanied with Affidavit of the party. The documents sought to be produced are all obtained through electronic mode. But, the said list not contain the certificate as required under the provisions of Bharatiya Saksha Adhiniyama, 2023. There is no valid or sufficient reason for

production of documents. The application is clearly lacking from bonafides of the applicants. The present application is filed only to protract the proceedings and to defeat the valuable rights of the Plaintiff. Hence, it is prayed to reject I.A.No.30 with cost in the interest of justice.

4. Heard both the counsels.

5. Now the points that arise for my consideration are that:

1) Whether the Defendant Nos.1, 7 to 10 have made out sufficient grounds to allow the application to produce the documents?

2) What order?

6. My findings on the above points are as under:

Point No.1: In the Affirmative.

Point No.2: As per final order for the following reasons,

REASONS

7. **Point No.1:** Admittedly, this is suit filed by the Plaintiff against the Defendants for partition and separate possession of his 1/3rd share in all the suit schedule properties. He has also sought to declare the Sale Deeds executed by the Defendants in respect of some of the suit properties are not binding on him. Defendant Nos.6, 8, 24,

18 & 19 have appeared and filed their written statements. The Defendant No.6 has taken up the plea that already partition has taken place in the year 1968 itself. The purchasers have claimed to be the bonafide purchasers of the properties. The Court Commissioner has submitted his requisition on 23/11/2024 seeking time to conduct commissioner work, in view of which posted the case awaiting commissioner report. At this stage, the present application came to be filed seeking production of certified copies of the documents as per List, earlier its xerox copies were produced with permission. I have carefully perused the contentions taken by the Defendants and if the application is allowed, no hardship or otherwise would be caused to the Plaintiff or other Defendants. Moreover, the Plaintiff will get an opportunity during cross-examination of witnesses to elicit true things on the documents produced are relevant to the instant suit. Therefore, the application in I.A.No.30 deserves to be allowed. Hence, without much discussion I inclined to answer Point No.1 in the Affirmative.

8. **Point No.2:** In view of the above discussions on Point No.1 and for the reasons stated therein, I proceed to pass the following;

ORDER

O.S No.445/2016.

I.A.No.30 filed u/o.VIII Rule 1(A) r/w.sec.151 of C.P.C,
by the learned counsel for Defendant No.6 is hereby allowed.

Defendant No.6 is permitted to produce the certified
copies of the documents as shown in the List.

Senior Civil Judge, Kushtagi.