

### **ORDERS ON I.A. No.IX**

The defendant No.2 has filed I.A. No.9 under Order 8 rule 1-A of CPC to condone the delay in production of documents and produced document with memo.

2. In the accompanying affidavit, it is stated that the plaintiff has filed the present suit against the defendants for relief of declaration and mandatory injunction. At the time of filing of her written statement she was unable to produce some important documents at earlier stage, since said documents have produced in O.S.108/2022 pending before the Sr.Civil Judge at Tarikere. Recently she collected said documents. Said documents are important documents to substantiate her defence. If the present application is not allowed, she will be put to great hardship and injury. Therefore, sought for allowing I.A. No.9.

3. The learned counsel for the plaintiff has filed objection by denying entire affidavit averments. In the objection it is stated that the documents which are sought to be produced are not necessary in the present case. Said documents are irrelevant and not admissible as evidence. By suppressing material fact, the defendant No.2 has filed this application. To drag the proceedings the defendant No.2 has filed this application. Hence, sought for dismissal of application.

4. Heard the arguments of both counsels and perused the records.

5. The following points arise for consideration of this court;

1. Whether the defendant No.2 has made out sufficient grounds to allow I.A. No.9?

2. What order

6. My answer to the above points are as under;

Point No. 1: In the Affirmative

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

### **REASONS**

#### **Point No. 1:-**

7. I have gone through the plaint, written statement and documents produced by both the parties.

8. The plaintiff has filed this suit against the defendants for the relief of declaration and mandatory injunction. When case is posted for further chief examination of defendant No.2, the defendant No.2 has filed the present application to condone the delay in producing said documents. It is the contention of the plaintiff that the documents which are sought to be produced are not admissible in law. The defendant No.2 has filed this application to condone the delay in producing said documents. Whether said documents are

admissible in law or not it could be decided at later stage. In the affidavit it is stated that since said documents have produced in O.S.108/2022 which is pending before Sr.Civil Judge at Tarikere, she was unable to produced said documents. As per the list the documents, the defendant No.2 wants to produced a certified copy of a Will and copy of plaint, written statement in O.S.108/2022. Whether said documents are relevant or not it could be decided at the time of judgment. Without taking said documents on record by condoning the delay, this court cannot decide the validity of said documents. Therefore, at this stage the defendant No.2 has made out grounds for delay in producing said documents.

9. It is well settled that widest opportunities should be give to the parties in the trial court itself to prove their case. It is the contention of the defendant No.2 that since said documents were in custody of a court in another case she could not able to produce said documents at the time of filing of written statement. No doubt the defendant No.2 has filed this application at belated stage. The inconvenience caused to the plaintiff can be met out by imposing cost on the defendant No.2. Therefore, to avoid multiplicity of proceedings the application filed by the defendant No.2 is deserved to be allowed.

Hence, I answer point No.1 in the affirmative.

**Point No.2:-**

10. In view of my findings on point No.1, I proceed to pass the following:

**ORDER**

*I.A.No. I.A. No.9 filed by the defendant No.2 under Order 8 Rule 1A of CPC is hereby allowed on costs of Rs.200/-.*

*The list of documents taken on record. Further chief of DW-1 by. Call on 08.04.2024.*

**Prl. Civil Judge & JMFC,  
Bhadravathi.**