

ORDER ON I.A.No.III

I.A.No.3 is filed by the plaintiff under Order XVI Rule 6 of CPC seeking summoning the defendants to produce the original Joint Development Agreement dated 11.04.2012 and the original power of attorney dated 11.04.2021.

It is submitted that during the course of transactions with the defendant the defendant No.1 had entered into with a Joint Development Agreement with one Mr. S.V Suresh and also the said Mr. S.V Suresh had executed the power of attorney in favour of defendant No.2. It is submitted that for the purpose of effective adjudication of the dispute on hand it becomes just and necessary to summon the said documents originals of which are in the custody of the defendants. Hence the application.

Prior to filing of the application notice is sent to the email address of the Directors and registered email ID of the defendant No.1 company to which there has been no reply.

The counsel for defendant No.2, who is the only contesting party, orally objected to this application submitting that the said documents are not in possession of defendant No.2. Defendant No.2 is the Director of defendant No.1 which is placed exparte. Defendant No.3 another Director has expired during the pendency of the suit and proceedings against her has been abated. Except producing the copy of the email under which defendant Nos.1 and 2 were called upon to produce the document sought under the application. The plaintiff has not placed on record any material to draw an inference that these documents continued to be in possession of defendants No.1 and 2. When defendant No.2 has

Com.O.S.214/2025

categorically denied being in possession of the said documents, summoning defendant No.2 to produce those documents would not arise. The plaintiff has not placed any material to infer that inspite of being in possession of the original JDA 11.04.2012 and GPA dated 11.04.2021 deliberately the defendant is withholding the same from being produced before the Court. Therefore under such circumstances issuing summons to the defendants to produce the said original documents would be an exercise in futility. Hence I pass the following:

ORDER

I.A.No.3 filed by the plaintiff under Order XVI Rule 6 of CPC is **rejected**.

No order as to costs.

(Arjun S Mallur)
LXXXV A.C.C.& S.J.
Bengaluru.