

KABC170017162023



**IN THE COURT OF LXXXII ADDL.CITY CIVIL &  
SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU  
(CCH-83)**

**PRESENT: SRI. VIDYADHAR SHIRAHATTI, L.L.M.,  
LXXXII ADDL.CITY CIVIL & SESSIONS  
JUDGE,  
BENGALURU.**

**Com.O.S.No.835/2023**

**Dated on this 06<sup>th</sup> Day of September 2025**

**Plaintiffs            M/s Brunton Developers and  
another.**

**// versus //**

**Defendant            M/s JSM Corporation Private  
Limited.**

**ORDERS ON I.A. NO. 5**

The Defendant filed I.A. No.5 under Order XVI Rule 1 read with Section 151 of CPC to issue summon by name V. Shashikanth, to be present as a witness and pass such orders and further orders in the interest of justice and equity.

**2.** In accompanying affidavit the Defendant stated on oath that, the plaintiff herein filed their list of witness on 02.08.2024 containing the 3 names. However, Mr. T.B. Venkatesh was pleased to lead evidence on behalf of plaintiffs as Pw.1 and was fully cross-examined. Mr. Sunil Swamy was pleased to lead evidence on behalf of plaintiff as Pw.2, but they have not lead evidence of V. Shashikanth who is the authorised signatory to the sale deed dated 21.05.2012. The plaintiff No.1 was conveyed rights to 55% of the suit schedule property and V.Shashikanth was the Deputy President of M/s United Breweries (Holdings) Limited as per the sale deed. Hence, the evidence of these witness is for essential and initially this suit is filed for arrears of rent and the alleged oral agreement. Hence, he prayed to allow the application.

**3.** Per contra, the Plaintiff has filed detailed objections stated that, the present application filed under Order XVI Rule 1 read with Section 151 of Code of Civil Procedure is not maintainable. As such the witness is belongs to V. Shashikanth, who is the plaintiff witness he cannot summon the said witness and the plaintiff has already admitted the

sale deed. Therefore, not required to examine the 1<sup>st</sup> Plaintiff is absolute owner of the schedule property and execution of the registered sale deed and interest of the vendor stood extinguished. There is neither a denial of the plaintiffs title to the suit schedule property nor any challenge to the letter of attornment issued by the vendor of the 1<sup>st</sup> plaintiff in favour of the Defendant. Hence, the application not containing any merits. Hence, he prayed to dismiss the application.

**4.** The Advocate for the Defendant has relied Judgment of the Hon'ble High Court of Karnataka in **WP No. 50575/2019 (GM-CPC)** between ***M. Sharadamma and Others vs. Kiran Kumar and Others, order dated 09.07.2025.***

**5.** I have heard the arguments of plaintiff and Defendant.

**6.** Based on the contentions of the respective parties, submissions made by the learned Advocates for both parties, I have formulate the following Points for my consideration:-

1. Whether the Defendant has made out a ground to summon witness by name V. Shashikanth who examine in favour of the Defendant ?
2. What Order?

**7.** My findings are as follows:-

Point No. 1: - In the Affirmative.

Point No. 2: - As per my final orders for the following reasons.

### **REASONS**

**8. Point No. 1:** - The plaintiff has filed list of witness on 02.08.2024 containing the 3 witness. But the Plaintiff has examined 2 witness by name T.B.Venkatesh and Sunil Swamy, but not examined V. Shashikanth. However, the Defendant filed this application to examine the V. Shashikanth is attesting witness of the sale deed dated 21.05.2012 executed by name M/s United Breweries (Holdings) Limited which is marked as Ex.P.5 by the plaintiff. The plaintiff No.1 was conveyed rights to 55% of the suit schedule property. Therefore, to examination of V. Shashikanth is necessary. It is an evidence of plaintiff that,

the name of the witness has been listed by the Plaintiff and that witness cannot be examined by Defendant in his favour. The observation made by the Hon'ble High Court of Karnataka in M. Sharadamma and Others vs. Kiran Kumar and Others (Supra) case the Defendant can examine the witness listed by the Plaintiff. The said case is at the stage of Defendant Evidence. Therefore, the contention raised by the Defendant is that to ascertain the rate of passing 55% of the suit schedule property. The Examination of V.Shashikanth is essential and even the Plaintiff is an opportunity to examine the witness. Therefore, there is no bar in any law to examine V.Shashikanth. As per Judgment of Hon'ble High Court of Karnataka in M. Sharadamma and Others vs. Kiran Kumar and Others (Supra). Hence, I answer this point in the Affirmative.

**9. Point No.2 :** Accordingly, I pass the following;

**ORDER**

***The I.A. No.5 filed by the Defendant under Order XVI Rule 1 read with Section 151 of Code of Civil Procedure, 1908 is hereby allowed.***

***Issue witness summons to the V.Shashikanth, as detailed address mentioned in I.A. No.5, if steps taken, by 18.09.2025.***

(Dictated to the Stenographer, typed by her, verified and corrected by me and then pronounced by me in open Court on this the **06<sup>th</sup> day of September 2025**).

**(VIDYADHAR SHIRAHATTI),  
LXXXII Addl.City Civil & Sessions Judge,  
Bengaluru.**