

KABG040001882018



ORDER ON I.A.NO.5

The plaintiff has filed I.A.No.5 U/o. 16 Rule 1 and 2 R/w. Section 151 of C.P.C praying to issue suit summons to the witnesses stated in the application and direct them to produce documents and to give evidence in the interest of justice.

List of witnesses :

- 1. Shri. S.A. Navalgatti,
B.A. L.L.B. (Spl)
Advocate & Notary,
Belagavi (Dist. Court)
(To produce his Register at Sl. No. 272
dated 02-05-2005)**
- 2. Shri. Rajesh S/o Baswant Jadhav,
Age : 65 years, Occ : Business,
R/o : Varadraj Building, Mandoli Road,
Patil Galli, Belagavi.
(To produce sale deed, development agreement,
original power of attorney N.A. and Layout Etc.]**
- 3. Sub-Registrar Office,
North, Belagavi.**

**[Enclosures pertaining to Registered sale deed
bearing No. BEL-1-02127, dated 07-06-2010
and CD No. BELD-2004]**

2. In the affidavit the GPA holder of the plaintiff stated that, he had filed this suit for permanent injunction. The defendants have executed General Power of Attorney in favour of Shri. Basawant Nana Jadhav and said GPA was registered before S.A. Navalgatti at Sl. No. 272 dated 02-05-2005 and through that General Power of Attorney Baswant Nana Jadhav had executed sale deed in favour of plaintiff and others. Witness No. 2 is son of Baswant Nana Jadhav and witness No. 3 is the Sub-Registrar Belagavi, the said sale deeds were registered in the said office of Registrar on 7-06-2010 therefore, he filed this application to lead further evidence and to bring the true state of affairs in this case therefore, evidence of the witnesses mentioned in the application is relevant hence, the plaintiff prayed to issue summons to the witnesses. It is stated that the evidence of witnesses is important and material in support of the claim of plaintiff and same will assist the court in deciding the matter effectively. With these contentions plaintiff prayed to allow the application.

3. In spite of sufficient opportunities the defendants have not filed objections to I.A. No. 5 hence, objection taken as nil.

4. Heard counsel for plaintiff and perused records, the plaintiff filed this suit for permanent injunction against the defendants contending that defendant No. 1 to 6 are the absolute owners of suit property and they executed General Power of Attorney in favour of Shri. Rajesh Basawant Jadhav who is father of defendant No. 7 to develop R.S. No. 89/1A/2 and defendant No. 1 to 6 have given authority to father of defendant No. 7 for conversion of land into non-agricultural use and execute sale deeds in favour of intending purchasers. Through the General Power of Attorney the defendant No. 1 to 6 have sold suit property to plaintiff through registered sale deed dated 07-06-2010 and put him in actual, physical possession and enjoyment of the suit property. Now the defendants without having any right, title and interest over the suit property are trying to disturb the peaceful possession, use, enjoyment of the plaintiff over the suit property. Hence, he filed this suit for the relief permanent injunction to restrain the defendants

from disturbing or obstructing the peaceful possession, use enjoyment of plaintiff over the suit property.

5. On perusal of plaint averments, the relief sought by plaintiff is only for permanent injunction. In a suit for permanent injunction, the plaintiff has to prove his possession over the suit property as on the date of suit and the interference by the defendants in enjoyment of suit property. In the case on hand, the plaintiff is seeking to issue witness summons to witnesses to examine them i.e., the Notary before whom General Power of Attorney is executed by defendant No. 1 to 6 in favour of father of defendant No.7, the son of notary and the sub-registrar, before whom the alleged sale deeds were executed.

6. On perusal plaint averments and relief sought in present I.A., it appears that, the evidence of proposed witnesses is not material to decide the case on hand. The evidence of proposed witnesses will not assist the plaintiff in proving his possession over the suit property and interference by the defendants. Therefore, the plaintiff has not made out grounds to allow the application and issue

witness summons to the witnesses listed in the application.

Hence, I proceed to pass the following;

ORDER

**I.A.No.5 filed under order 16
Rule 1 and 2 R/w sec. 151 of CPC
is hereby rejected.**

For defendant evidence.

Call on 17-04-2025

***Sd/-*
IV Addl. Civil Judge & JMFC.,
Belagavi.**