

ORDERS ON I.A.No.IX FILED BY THE PLAINTIFF
UNDER ORDER XVI RULE 1 R/W SECTION 151 OF
CPC

The plaintiff has filed this I.A. to summon the witness stated in the application to give evidence.

2. In the affidavit annexed to the application, it is averred that the plaintiff has filed the suit for partition and separate possession. The person sated in the application has the knowledge about the family affairs of the plaintiff and defendants. He would depose about the the affairs taken place in the family of the plaintiff and defendants. Therefore, he has to be examined. Accordingly, the plaintiff prayed to allow the application.

3. The defendants have filed objections contending that the plaintiff intends to lead evidence of a stranger to the family. The plaintiff has not stated any reasons as to why the name of the witness has not been stated at an earlier point in time. The examination of the witness stated in the application is not necessary. Accordingly, the defendants prayed to dismiss the application.

4. Heard. Perused the materials available on record.

5. Now the points that arise for consideration are as follows;

1. Whether the application deserves to be allowed?
2. What order?

6. My answer to the above points are as hereunder:

Point No.1: In the Affirmative

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

REASONS

7. **Point No.1:-** The suit is filed for partition and separate possession. It is stated in the affidavit that the witness knows the family affairs of the plaintiff and he can depose about the affairs taken place in the family of the plaintiff and defendants.

8. Since suit is for partition, the family affairs between the parties would be vital to decide the case on merits. Therefore, I am of the opinion that the examination of the witness would be necessary.

9. The objection raised by the defendants that no reasons are stated for not naming the proposed witness at the earlier point in time has no sustenance, as the plaintiff had made out grounds to examine the witness. Therefore, I am of the opinion that I.A. deserves to be allowed. Accordingly, point No.1 is answered in the Affirmative.

10. **Point No.2:-** In view of the above discussion, I proceed to pass the following:

ORDER

I.A.IX filed by the plaintiff under Order XVI Rule 1 R/w Section 151 of CPC is hereby allowed.

Issue witness summons to the witness stated in the application.

Call on 23.10.2024

Sd/-

**I Addl. C. J. & JMFC,
Belagavi.**