

KABG040022762018



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC,
AT : BELAGAVI.**

PRESENT : Smt. Preeti L. Malavalli, B.B.A.,LL.B (Hons.)
Prl. Civil Judge & JMFC.,
Belagavi.

DATED THIS THE 6TH DAY OF AUGUST-2025

ORIGINAL SUIT NO.1056/2018

PLAINTIFF :

1)	Shri. Baburao Basappa Onarotti.
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Vs.

DEFENDANT :

1)	Shri. Mallappa S/o. Babu Hamannavar.
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PARTIES TO I.A.NO.III

Applicant/Plaintiff :

1)	Shri. Baburao Basappa Onarotti.
	(By Shri. A. C. Hanaminahal, Adv.)

Vs.

Opponent/Defendant :

1)	Shri. Mallappa S/o. Babu Hamannavar.
	(By Shri. S. Y. Jodagunde, Adv.)

1.	Provision under which application is filed	U/O.XVI Rule 6 of CPC
2.	Relief sought for	Call for document
3.	The date on which the application is filed	01.08.2024
4.	Number of application	III
5.	The date on which the objections are filed by different opponent	19.08.2024
6.	The date on which the orders were passed on the said application.	06.08.2025

ORDER ON I.A.NO.III FILED U/O.XVI RULE 6 OF C.P.C.

The counsel for plaintiff has filed application U/O. XVI Rule Rule 6 of C.P.C. with list of witness seeking direction to the said witness mentioned in the list i.e., the Office of Assistant Executive Engineer (No.II), Corporation of City of Belagavi, near Police Bhuvan, Headquarters, Belagavi, to produce document mentioned in the application.

2. In the affidavit annexed to the application, it is stated that the the plaintiff has been staying in the suit schedule property since 30 to 40 years along with his family and the said house is in good condition, but the defendant who is the neighbour having house property adjoining the suit property, has constructed RCC building i.e., house with ground floor in his property. That the defendant was intending to construct first floor of his house bearing Plot No.3 situated at R.S.No.498/5, Basavan Kudachi, Belagavi. The defendant accumulated raw materials like sand, bricks, steel and stones for construction of first floor of his house without any valid permission from City Corporation, Belagavi and he has also not obtained consent from the neighbours in the locality. Thereafter the plaintiff filed complaint before City Corporation, Belagavi in this regard, but the City Corporation Official in collusion with defendant, ignored the objections raised by the plaintiff and issued permission for construction and the defendant by ignoring his obligation at the time of construction of house, caused damage to the roof of the house of plaintiff. That as such, issuance of witness summons to Assistant Executive Engineer, City Corporation, Belagavi, seeking production of the said document i.e., permission for construction of house in Plot No.3, Basavan Kudachi, Belagavi, is necessary. On these grounds, the plaintiff has prayed to allow the application.

3. Per contra, the defendant has filed objection to the said application on the ground that the trial in the case is yet to begin and the evidence of plaintiff and defendant has not been recorded yet in the case and at this stage, the present application calling for document from third party who is not a party to the suit, is not permissible in the eye of law and the application is pre-matured. On these grounds, the defendant has prayed to dismiss the present application with costs.

4. Perused the application and objection.

5. Heard arguments of both counsel.

6. The following points arise for consideration:

POINTS

i) *Whether the applicant/plaintiff has made out sufficient grounds to allow the I.A.No.III ?*

ii) *What order ?*

7. My findings to the above points are as follows :

Point No.1 : In the Negative,

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

REASONS

8. **Point No.1 :** This is suit filed by the plaintiff against the defendant seeking the relief of declaration and mandatory

injunction against the defendant. The present application is filed when the case stood posted for plaintiff evidence.

9. The plaintiff has sought for issuance of summons to the Assistant Executive Engineer, City Corporation, Belagavi with direction to him to produce the permission for construction of house in Plot No.3, R.S.No.498/5, Raj Marg, Basavan Kudachi, Belagavi dated 27.08.2018 in favour of the present defendant.

10. It is pertinent to note that the said document pertains to the defendant and is said to be maintained by the City Corporation, Belagavi. The defendant has also contended in his written statement that he has obtained necessary permission from competent authority and got constructed his house. As such, the said document which is said to be the document issued by City Corporation, Belagavi and pertaining to the defendant's property, can very well be obtained by the plaintiff from the City Corporation, Belagavi by applying for certified copy thereof. Moreover, the trial is yet to begin in the case and it is for the plaintiff and defendant to prove their respective cases before the Court. Hence, summoning of permission for construction of defendant's house from City Corporation, Belagavi would not be necessary at this stage, since the plaintiff can obtain certified copy of the same and produce it before the Court. **Accordingly, I answer Point No.1 in the Negative.**

11. Point No.2 : For the above said discussion on Point No.1 and 2, I proceed to pass the following :

ORDER

***I.A.No.III filed by applicant/plaintiff
U/O.XVI Rule 6 of C.P.C. is hereby
rejected.***

(Dictated to the stenographer directly on computer, revised by me & after corrections pronounced in the open Court on this the 6th day of August-2025.)

**(Smt. Preeti L. Malavalli)
Prl. Civil Judge & JMFC, Belagavi.**