

ORDERS ON I.A.NO.V FILED BY THE
DEFENDANT NO.1.

I.A.No.V filed by the defendant No.1 U/o XVI rule 6 of CPC to summon Sri. K.S. Adithya, Notary, Mudigere to cause production of notarial register of 2015 consisting of page bearing notarial register serial number 879/15 dated 05.02.2015.

2. On the other hand plaintiffs filed objection to the application and prays to dismiss the application.

3. Heard both side and perused the materials on record.

4. The following points arises for my consideration.

1) Whether the defendants have made out grounds to allow IA No.V?

2) What order?

5. Heard on IA No. V by both side

6. My findings on the above points are as follows:

Point No. 1 : In the Affirmative

Point No. 2 : As for the following:

REASONS

7. **Point No. 1:** The defendants have filed the present application for issue summons to Sri. K.S. Adithya, Notary, Mudigere to cause production of notarial register of 2015 consisting of page bearing notarial register Sl.No.879/15 dated 05.02.2015. In the memo of fact annexed to the application it is stated that the plaintiff taken the contention that on 13.11.2014 an agreement of sale has been entered into and that the same has been attested before the notary on 05.02.2015 the said fact has been categorically denied and disputed by the defendants. In order to ascertain the truth regarding the execution and attestation of the alleged agreement it is necessary to summon the document maintained by Sri. K.S. Adithya, Notary, Mudigere. Defendants stated that the evidence regarding the execution and attestation of the agreement placed vital role in deciding the dispute between the parties to the suit. Hence defendant prays to allow the application.

8. On the other hand plaintiff filed objection to the application and stated that the suit is at the stage of further examination of D.W.1 and at this stage issue of

summons to another witness is not permissible. Plaintiff further stated that defendants have sought the advocate for plaintiff to produce documents which he attested while carrying out the work as notary public. Under the above circumstance the advocate for plaintiff cannot produce any documents in his custody without retiring from the suit. He further stated that before retirement from the case the advocate for plaintiff has to intimate plaintiff about the subject and a opportunity to engage some other advocate. At this stage the application filed by defendant is not maintainable. Hence plaintiffs prays to dismiss the application.

9. On perusal of the records it reveals that, plaintiff has filed the suit for specific performance of contract. When the matter is posted for defendant evidence, the defendant No.1 came up with present application to summoning Sri. K.S. Adithya, Notary, Mudigere to cause production of notarial register of 2015 consisting of page bearing notarial register serial number 879/15 dated 05.02.2015. The Ex.P.1 sale agreement is attested by Sri. K.S. Adithya, Advocate and Notary. In the written statement at para No.4 defendant specifically denied the agreement and also denied the attestation

and execution of the agreement before the notary. It is the principle that wide opportunity should be given to the parties to prove their case in the trial court itself. If the IA No.V is allowed no hardship will be caused to the plaintiff. Therefore, to avoid multiplicity of proceedings, I inclined to allow the application filed by the defendant No.1. In view of my above discussion I answer point No.1 in the Affirmative.

10. **Point No. 2:** In view of my findings on point No.1 I proceed to pass the following:

ORDER

IA No.V filed by defendant No.1 U/o XVI rule VI of CPC is hereby allowed on costs of Rs.200/-.

Issue summons to Sri. K.S. Adithya, Notary, Mudigere to cause production of notarial register of 2015 consisting of page bearing notarial register serial number 879/15 dated 05.02.2015 if PF paid by defendant.

Call on : 12.06.2025.

(JAYAPRAKASH V.)
SENIOR CIVIL JUDGE AND JMFC.
MUDIGERE.