

ORDER ON I.A.IV

The petitioner filed this application under Order XVI Rule 1 and 2 r/w Section 151 of C.P.C. to permit him to produce the witness list to lead his further evidence. In the affidavit it is sworn that, O.S.130/2022 was filed before this court for the relief of specific performance of contract on the basis of sale agreement alleged to be executed by him in favour of the respondent and the said suit was decreed by making the petitioner *ex parte*. Hence, he filed this petition seeking restoration of the said suit, adduced his evidence and produced some documents. However, the petitioner wants to adduce the evidence of one K.Manjunath, witness who involved in the facts of the petition. It is very much necessary to get the statement of witness for proper adjudication of the matter. Hence, he prays to allow the application.

On the other hand the respondent filed objections stating that the application is filed only to prolong the proceedings and harass her. The petitioner had got produced the proposed documents at earlier stage of the proceedings. The petitioner has not mentioned the reason for non-production of the proposed documents and he has also not explained the whereabouts of those

proposed documents till this day. So, she prays to reject the application.

Hear both sides.

The simple application is filed seeking permission to produce the witness list to lead the further evidence of the petitioner. The learned counsel for the petitioner argued that, he has to examine the witness by name K.Manjunath who involved in the facts of the petition. Suppose the application is not allowed, it would cause hardship to him. So, he prays to allow the application. The production of witness list is a part and parcel of the trial. Suppose the applicant is denied to produce the witness list it will take away his right. In case of production of list of witness no hardship will be caused to the petitioner. However, as rightly submitted by the learned counsel for the respondent, the petitioner has not shown the reason for late production of witness list. So, the objection of respondent may be considered by imposing some nominal costs. Hence, I.A.IV is allowed on cost of Rs.400/- payable to the respondent. The petitioner is permitted to lead further evidence through one Manjunath. Call on 06.09.2025.

Senior C.J. & JMFC.,
Nanjangud.

29.07.2025