

**ORDERS ON I.A.No.XII**

At the stage of further evidence of plaintiff this I.A.No.XII filed by the applicant/plaintiff under Order 16 Rule 1 & 2 of C.P.C., seeking permission to file list of witness and to give evidence by condoning the delay if any.

2. In I.A.No.XII, it is stated that, for the reasons mentioned in the accompanying affidavit that, the plaintiff has filed the above suit for the relief of declaration, possession, permanent & mandatory injunction. The evidence of the witness very important to prove his case. The witness who cited in the application is very much aware of the facts and circumstances of the case and he is necessary for the proper adjudication. Hence, the witness summoned for evidence is necessary for disposal of the case and if I.A. is not allowed, the great hard ship will be caused to the plaintiff. Accordingly, he has prayed to allow the above I.A.

3. On the other hand, the learned counsel for the defendant has submitted that, he has no objections to allow the I.A.No.XII.

4. Heard on both sides and perused the materials available on record.

5. Now the points that will arise for my consideration are:-

1. Whether the applicant/plaintiff has made out sufficient grounds to allow I.A.No.XII filed by him under Order 16 Rule 1 & 2 of C.P.C.?

2. What Order?

6. My answers to the above points are:-

Point No.1 : In the **Affirmative**.

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

**:: R E A S O N S ::**

7. **Point No.1:-** In this case, I have completely gone through the entire suit file. This is the suit filed by the plaintiff for the relief of declaration, possession, permanent & mandatory injunction. When the case has been posted for further evidence of plaintiff, the instant I.A.No.XII is filed by the plaintiff for filing the list of witness. Accordingly, the plaintiff prayed to permit the him to file list of witness.

8. After perusal of the I.A.No.XII and case file, I have also gone through the provision of Rule 1(3) of Order XVI of C.P.C. It states that, ***the court may, for reasons to be recorded, permit a party to call, whether by summoning through court or otherwise, any witness.***

9. There is no doubt that the party to the suit is required to file a list of witnesses before the commencement of the evidence. However, the Rule 1(3) of Order XVI itself gives power to the Court to permit the party who failed to file the list earlier to summon any person for evidence at the later point of time. The right of a party to seek and obtain issue of summons is not lost until suit is final disposed off. Therefore, it is necessary to summon the witness for the purpose of proper adjudication of the case. Hence, merely because, an application is made at a later stage, that cannot be ground for rejection of the application.

10. As found from the affidavit of I.A.No.XII, the witness intended to be summoned is necessary for proper adjudication of the case. Hence, if this I.A. is allowed, no hardship will be caused to other side rather it complies the fair opportunities to the parties. However, it is necessary to allow the I.A.No.XII. Hence, I proceed to pass the following:-

**:: O R D E R ::**

The I.A.No.XII filed under Order XVI Rule 1 & 2 of C.P.C. is hereby **allowed on cost of Rs.500/-**.

The plaintiff is hereby permitted to file the list of witness.

For further evidence of plaintiff.

Call on: 28.01.2025.

**Addl. Civil Judge & J.M.F.C.,  
T.Narasipura.\*\***