

ORDER ON IA NO.V

Provision under which the application is filed	U/Sec.16 rule 2 and 6 R/w.Sec.151 of CPC.
Relief sought for	To issue witness summons.
The date on which the application is filed	25.06.2025
Number of the application	IA No.V
The date on which the objections are filed by different opponent	04.08.2025
The date on which the orders were passed on the said application	08.09.2025

The respondent filed this application U/Sec.16 rule 2 and 6 R/w.Sec.151 of CPC to issue witness summons to the witnesses mentioned in the application.

2. In the affidavit the respondent contended that now case is posted for further respondent evidence. The evidence of officials shown in the application is necessary, as the said officials has served suit summons to the defendants in O.S.No.81/2022 and now the said defendants had filed this petition to set aside the exparte decree stating that summons was not served in O.S.No.81/2022. Hence it is necessary to examine the witness mentioned in the application. Hence prays to allow the application.

3. On the other hand, the petitioner filed objections. In the objections contended that the

application is not maintainable. The said witnesses are the officials witnesses and they have not served the summons in persons to the defendants. The application moved by the respondent one after another without passing any order on earlier similar application, which are against the law and procedure. Hence prays to reject the application.

4. Heard the counsel.

5. After going through the material available on record, the petitioner filed this petition to set aside the exparte decree in O.S.No.81/2022 dated 09.02.2023 stating that the summons was not served and exparte judgment was passed. Now the case is posted for further respondent evidence at this stage the respondent filed this application to issue witness summons to the one Manjunath, postman and another witness Basavaraj who is process server of this court. As per the respondent summons was not served on the petitioner/defendant and to disprove the said contention the respondent filed this application to examine the said witnesses. The said witnesses are the officials witnesses the petitioner filed this petition stating that the summons was not served on the petitioner and the burden lies on the petitioner to prove the same. The said witnesses have submitted their report in officials capacity and moreover the burden lies on the petitioner to

prove the said contention. Hence this court is of the opinion that the respondent has not made out grounds to allow the application. Hence this court proceed to pass the following ;

ORDER

IA No.V filed U/Sec.16 rule 2 and 6 R/W.Sec.151 of CPC by respondent is hereby rejected.

Call on for further respondent evidence.

Call on 13.10.2025.

**Senior Civil Judge & JMFC.,
Devadurga.**