

ORDERS ON I.A.No.IX

Provision under which the application is filed	U/o.29 rule 3 and 16 rule 1(2) R/w.Sec.151 of C.P.C.
Relief sought for	To issue summons to give evidence and produced the documents.
The date on which the application is filed	21.07.2025
Number of the application	IA No.IX
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	27.09.2025

Sri.A.M.P. advocate for defendant no.2 filed IA No.9 U/o.29 rule 3 R/w. U/o.16 rule 1 (2) R/w.Sec.151 of CPC to issue summons to give evidence and produced the documents.

2. In the affidavit defendant contended that, On 16.06.2025 case is posted for evidence of defendant no.2. The Hon'ble court was pleased to take the evidence of defendant as nil. The plaintiff has got marked Ex.P.1 ie., the alleged authorization by the plaintiff-company, dated 19.08.2022 and signed by its director by name Mr.Sourabh Roy. The Ex.P.1 has been filed after the institution of the

present suit on 14.09.2022. Hence it is essential to examine the director Mr.Sourabh Roy, to elucidate the matter in this regard. Hence it is necessary to examine the witness mentioned in the application. Hence prays to allow the application.

3. On the other hand the plaintiff filed objections. In the objections contended that the contents of the affidavit are all false. The plaintiff company has issued the authorization letter to one Vasanta Rao to purchase the suit property and the plaintiff company filed the above suit through said Vasanta Rao as an authorized signatory of plaintiff company. The defendant no.2 not at all made any objections while marking the document as Ex.P.1. Now defendant no.2 is estopped from raising objections with regard to Ex.P.1 at this stage. Hence application not maintainable. The PW.1 categorically answered the questions of defendant no.2 in the cross-examination. Hence there is no necessity to issue summons to the director of the plaintiff company to give evidence. The plaintiff company is the master of his case and the company has to decide to adduce its

evidence to prove its case. The defendant no.2 has no right to compel the plaintiff company to adduce the evidence of his choice. Only to drag the case defendant filed this application. Hence with these set of contention prays to reject the applications.

4. Heard both the sides. Advocate for plaintiff furnished the citation reported in 1996 (7) Supreme 301 (Union Bank of India V/s. Naresh Kumar and ors)

5. After going through the materials available on record the plaintiff filed this suit for specific performance of contract against the defendant on the strength of the registered agreement of sale dated 01.08.2016. Now the case is posted for arguments. At this stage the defendant no.2 filed this application. In the accompanying affidavit the defendant no.2 contended that the Ex.P.1 was filed after the institution of the present suit on 14.09.2022. As per the records the Ex.P.1 is the authorization letter dated 19.08.2022. In the present suit was filed on 10.02.2021. The PW.1 is the authorized person of the plaintiff company was examined as PW.1 on 31.10.2022. At the

time of marking of Ex.P.1 the defendant counsel raised the objection and subject to objection the said authorization letter was marked as Ex.P.1. Now the case is posted for arguments at this stage the defendant filed this application to issue witness summons to director of the company who is Mr.Sourabh Roy. As per the provision of CPC order 29 rule 3 states that- Power to require personal attendance of officer of corporation- The Court may, at any stage of the suit, require the personal appearance of the secretary or of any director or other principal officer of the corporation who may be able to answer material questions relating to the suit.

6. The defendant also quoted provision of order 16 rule 1 (2) of CPC as per the said provision- A party desirous of obtaining any summons for the attendance of any person shall file in court an application stating therein the purpose for which the witness is proposed to be summoned.

7. On this ground the defendant no.2 sought for issue summons to the director of the company to give evidence in the plaintiff case. As per the said provision the party has

to file application to examine the witness and party has to submit purpose of the said witness. In the present case on hand the defendant seeking issue summons to the director of the company to give evidence in the plaintiff case. As per the records already the plaintiff company through her authorized person examined. Moreover the plaintiff has to prove his case. The plaintiff is the master of his own case. At the time of hearing the plaintiff relied the above decision. After going through the said decision the trial court dismissed the suit holding that person who signed the plaint was not having valid authority to file the suit. The matter reaches Hon'ble Apex Court. The Hon'ble Apex court held that in suits instituted on behalf of public corporation, public interest should not be permitted to be defeated on mere technicality-procedural irregularity was curable.

8. The defendant cannot insist the plaintiff to examine the director in support of plaintiff case. Hence this court is of the opinion that the defendant has not made out grounds to allow the application. Hence this court proceed to pass the following:

O R D E R

I.A.No.9 filed by defendant
no.2 is hereby rejected.
Call on for arguments.

**Senior Civil Judge and J.M.F.C.,
Devadurga.**