

ORDER ON I.A. NO. 4 FILED UNDER ORDER 16 RULE 7 R/W
151 OF CPC

The DHR has filed the present application by praying to issue summons to the branch manager SUCCO Bank, Manvi to give evidence pertaining to the account details of PW1 Smt Tayamma W/o Ravi @ Ravikumar.

In the affidavit annexed with the application it is contended that at the time of cross-examination of the DHR the third party petitioners have suggested that Ex.R5 is a created one. PW1 intentionally has put her thumb impression on the third party petition and on her evidence. The PW1 has the bank account No.2000191050001851 in SUCCO Bank, Manvi and she has signed in the Bank documents. The evidence of Branch manager SUCCO Bank, Manvi is very much essential to prove the case of the DHR. If the application is allowed, no hardship will be caused to the other side. Hence, prays to allow the application.

The third party petitioner filed objections and submitted that the present application is not maintainable either in law or on facts. The present IA is not maintainable to decide the lis-filed under order 21 Rule 97 the cross-examination of the parties is completed. At this belated stage, the application is filed. Hence, prays for dismissal of the application.

Heard both sides and perused the documents.

The point that arise for my consideration is:

“Whether the DHR has made out
grounds to allow I.A. No. 4
filed under order 16 rule 7
R/W 151 of cpc ?”

My finding on the above point is in the **Affirmative** for the following reasons.

REASONS

The present execution petition is filed for the execution of the decree passed in OS No.102 of 2014. The said OS No.102/2014 was decreed infavour of the DHR herein by directing the JDR herein to execute the sale deed infavour of the DHR herein. During pendency of the petition the third party petitioners by filing the application under Order 21 Rule 97 by alleging that they are in the possession of the suit property and the suit agreement is not binding on them. After the appearance of third party petitioners/objectors the case is posted for enquiry. It is the contention of the DHR herein that the present third party petitioners were consenting witness to the agreement. The DHR is under the burden of proving that the decree passed in OS No.102/2014 is binding on the third party petitioners also. To prove the said contention the DHR filed the present application by seeking issuance of summons to establish the signature of PW1 before this Court. By providing an opportunity to the DHR no prejudice will be caused to the opposite party as the opposite party gets the right of cross-examination of the witness. It is a general rule that the sufficient opportunity has to be given to the parties to contest the case. On the other hand, if the opportunity is not given, the DHR may lose his right of supporting his case. Hence, this court is under the opinion that the opportunity may be given to the DHR. Accordingly, proceeded to pass the following order.

ORDER

I.A. No. 4 filed under *filed under Order 16 Rule 7 R/w 151 of CPC* hereby allowed.

In the result, office is directed to issue summons to the witness mentioned in the IA to depose and to produce the documents as sought in the IA.

The witness bata fixed at Rs.500/-.
Issue summons to the witness if PF paid.
Call on 08.07.2026.

Senior Civil Judge & JMFC.,
Manvi.