

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC AT
GUBBI**

Dated this the 28th day of June 2025

:: PRESENT::

**Sri. KIRAN S.P., B.B.M., LL.B.,
Prl. Civil Judge, Gubbi**

OS No.175/2018

Plaintiff : - Kariyappa

V/s.

Defendant :- Rajeshwari and others

CAUSE TITLE ON IA NO.6

Applicant : - P.Rajashekharaiyah (defendant No.2)

(By Sri.K.K.S., Advocate)

V/S

Respondent :- Kariyappa (plaintiff)

(By Sri.C.S.A., Advocate)

ORDERS ON I.A. No.6.

The defendant No.2 has filed I.A. No.6 under Order 16 Rule 6 of CPC, prays to summons the witness as mentioned in the application to give evidence in the above case.

2. In the accompanying affidavit of IA, the defendant No.2 submitted that, the plaintiff has filed the suit against the defendants seeking the relief of permanent injunction. The said case is posted for further evidence of defendants side. In fact the plaintiff himself has

encroached her property in Sy.No.96/1, 167/4 situated at Peramasandra. That one Nijagunappa the surveyor has measured the said properties and issued the Haddubasthu survey sketch, wherein he has shown the encroachment made by the plaintiff. In order to prove the survey sketch, it is just and necessary to examine said Nijagunappa who is mentioned in the annexed application as a witness who sought to be summoned. The witness is a Government official hence issuance of summons to give evidence is of great importance to his defence. Hence prays for allowing the application.

3. This application is not resisted by the plaintiff.

4. Heard the arguments

5. The point that arises for consideration is as follows:-

“Whether the application filed by the defendant No.2 deserves to be allowed and what order?”

6. The finding on the above point is in the affirmative for the following:

REASONS

7. I have gone through the application averments the has filed this application seeking to summon the witness as mentioned in the application. Admittedly defendant No.2 has not filed this application in time, instead of throwing out the application on technical grounds, it is just and necessary to allow the application in order to adjudicate the case fairly. If the application is allowed and permitted the defendants to lead the witness evidence, no harm or loss will be caused to other side, as they have got an opportunity to cross examine the defendants' witnesses. In the interest of justice and equity the application filed by the defendant No.2 is deserves to be allowed.

Accordingly I answer above point in the affirmative. For the above stated reasons, I proceed to pass the following order.

ORDER

I.A No.6 filed by the defendant No.2 under order 16 rule 6 of CPC is hereby allowed on cost of Rs 100/-.

Issue witness summons to the Nijagunappa.N.R, Taluka Surveyor, Taluk Office, Gubbi, if P.F paid.

(Dictated to the stenographer, transcribed by him, corrected and then pronounced in the open Court on this the **28th day of June 2025**)

(Sri.Kiran.S.P)
Prl. Civil Judge and JMFC,
Gubbi.