

Counsel for the plaintiff had filed IA No.24 under order 16 Rule 1 and 2 r/w/s 151 of CPC with a prayer to issue summons to witness No.1 in the list dated 23.11.2024. In the affidavit it is contended that the plaintiff has filed the suit for of partition and separate possession and the evidence of witness No.1 is very much necessary for the plaintiff to prove his case and prays for the IA to be allowed.

The defendant has filed his objections to the said application contending that the witness No.1 is a witness to the gift deed relied upon by the defendants and a few years ago he had turned hostile to the defendants and had approached the plaintiffs and received money to support them and he has a personal interest in the case of the plaintiff and being an interested witness he should not be encouraged and moreover, he is a professional witness and has given evidence in 10 or 15 cases and he is earning a living by supporting one party or the other and among

these grounds prays for the application to be dismissed.

Heard, perused.

It is pertinent to note that the defendants allege that the witness proposed to be summoned is a professional witness and has given evidence in 10 or 15 cases and he is earning a living by supporting one party or the other and that he is also an interested witness. It is to be noted that the witness when present will be cross examined by the defendants and the defendants have every opportunity to elicit the same before the Court and proved that he is incompetent, his evidence is unreliable and as per the evidence act the defendants have the right to impeach the credit of a witness therefore, if the present application is allowed not much hardship would be caused to the defendants and on the other hand since the plaintiff is claiming that the testimony of the said witness is very much essential, the plaintiff would be put to more hardship and loss.

Therefor, IA No.24 is hereby allowed.
Issue summons to witness No.1 in the
list dated 23.11.2024 if PF is paid.

For further plaintiff evidence call
on 03.02.2025

ACJ & JMFC. Pavagada.