

COMMON ORDER ON I.A.NO.XVI AND XVII

I	Provision under which the applications are filed	I.A.No.XVI- filed U/Sec. 151 and Order XVI Rule 1 and 2 of CPC. I.A.No.XVII - filed U/Sec.151 of CPC.
II	Relief sought for	I.A.No.XVI- To summons to the witness I.A.No.XVII- To reopen the case for further plaintiff side evidence.
III	The date on which the applications are filed.	04-12-2025

IV	Number of applications.	I.A.No.XVI and XVII
V	The date on which the objection filed by opponent.	Objections filed on 08-01-2026
VI	The date of which the order passed on the application.	19-01-2026

The plaintiff has filed I.A No.XVI and prays to condone delay in filing list of witness on behalf of the plaintiff and to issue summons to the below mentioned witness.

Witness to be summoned:

1. The Branch manager The Bhatkal Urban Co-Operative Bank Ltd., Nawayat Colony Branch, Bhatkal. Documents to be summoned from the above mentioned witness:

1. Account opening form relating to current account of M/S A.S.S Traders by its proprietor Abdul Sattar Shaikh along with all the documents submitted by the account holder to the Bank i.e. paravanige license of Abdul Sattar Shaikh, building tax paid receipt and lease agreement of the shop etc. submitted by him to the Bank at the time of opening the current account.

2. The applicant has filed affidavit and memorandum of fact annexed to the I.A No.XVI and XVII and stated that, he personally acquainted with

the facts of this case. The defendant has opened current account in his trade name i.e. in the name of A.S.S Traders with the Bhatkal Urban Co-Operative Bank Ltd., Nawayat Colony Branch and he came to know that, the defendant has produced the lease agreement, tax paid receipt and his business license etc. relating to suit schedule premises to the said Bank, while opening his said trade current account in the Bank. The said documents are vital documents and are very much required to prove the case of the plaintiff. The said documents cannot be produced by the plaintiff without summons from this Court and the plaintiff files an application to summon the witness to file documents. The said witness is to be examined as plaintiff's side witness and the documents to be filed by the witness is to be marked as plaintiff side exhibits. The above case is posted for arguments. The plaintiff recently came to know about the documents to be summoned from the witness and earlier to that he did not aware of the said documents. The said documents are vital documents to prove the case of the plaintiff. Hence, the plaintiff's side evidence is to be reopened in the interest of justice. Otherwise the plaintiff will be put to injury and in justice which

cannot be compensated in terms of money. Hence, he prays to allow the applications.

3. On the other hand the defendant counsel has filed separate objections to the I.A's and contended that, the application is false, frivolous and vexatious and the same is not maintainable either in law or on facts. The application is filed by the plaintiff is against the Civil Rules of practice. The application filed by the plaintiff at this stage seeking for summoning the witness to produce the documents without giving proper explanation to the satisfaction of the this Court, and the application filed by the plaintiff at this stage not maintainable. The plaintiff has closed his evidence a long back and at this stage the plaintiff has come up with an application to summon the witness to produce the documents without giving the satisfactory explanation is liable to be rejected, and the application is filed by the plaintiff only to drag the proceedings by one way or the other. The proposed documents and the witness to whom the issue of summons is sought in his application is concocted and is created to give a false evidence in the above case and has nothing to do with this case at this stage. Further, memorandum of the facts filed in in support of the the averments made in the application filed is total false and the same are

put to strict proof of the same. There is no proper explanation given by the plaintiff to summons the witness to produce the documents. Hence, prays to reject the applications.

4. Heard the counsels appearing for the parties. Perused the I.As, affidavits and objections.

5. Under the circumstances, following point arises for my consideration:-

1. Whether the applicant/ plaintiff has made out sufficient grounds to allow the I.A.No.XVI and XVII ?

2. What order?

6. My answers to the above points is as follows:-

Point No.1 :In the **Affirmative**

Point No.2 : As per final order

REASONS

7. **Point No.1:** The plaintiff has filed the suit for eviction and arrears of rent and mesne profit against the defendant with respect to the suit schedule property. The plaintiff has filed above applications at the stage of arguments. The plaintiff has filed this application praying to issue witness summons to the

witnesses mentioned in the application and sought for summoning of documents.

8. It is the contention of the defendant that, he is not the tenant under the plaintiff and he denied the rent agreement produced by the plaintiff. The plaintiff has every burden to prove his case. If the witness and documents are summoned no injustice will cause to the defendant rather, he has every opportunity for cross-examination of the said witness. The evidence of the witness and documents sought to be summoned may help to this court to decide the issues in the present case. Hence considering the facts and circumstances of the case, I answer point No.1 **Affirmative.**

9. **Point No.2:-** In view of the findings on points No.1, I proceed to pass the following:-

ORDER

The I.A No.XVI and XVII are hereby **allowed.**

Issue witness summons to the witness the Branch Manager Bhatkal Urban Co-Operative Bank Ltd., Nawayat Colony branch, Bhatkal to give evidence and to

produce Account opening form relating to current account of M/S A.S.S Traders by its proprietor Abdul Sattar Shaikh/defendant along with all the documents submitted by the account holder to the Bank i.e. paravanige license of Abdul Sattar Shaikh, building tax paid receipt and lease agreement of the shop etc. submitted by him to the Bank at the time of opening the current account, if PF paid.

Call on 06-02-2026.

Sd/-

Addl. Civil Judge &
JMFC, Bhatkal.