

**ORDERS ON IA No.5**

**T**he present application is filed by the defendant under Order **16** rule **1 and 2 R/w 151 of CPC** with a prayer for calling for documents from the office of the Tahsildar with respect to the documents shown in the schedule.

**2.** In support of the application it is pleaded that the order and judgment in case No.788/1975-76 passed by the Land Tribunal, Hadagali is needed in the present case for placing the entire case of the defendant before the court. Hence, prayed for the remedy sought in the application.

**3.** The said application is resisted by the plaintiff by way of objections. In the objections, it is stated that the present suit is only for the relief of permanent injunction and the plaintiff has not sought any relief of declaration. In view of the same, the above application is not maintainable and the same is not required in the present suit. Thereby prayed for rejection of the same.

4. Heard both sides.
5. Meticulously perused the records.
6. Based on the same the point that arises for

consideration is that:

*Whether the defendant has made out grounds for calling for documents from the office of the Tahsildar has stated in the schedule ?*

7. The above point for consideration is answered in the **AFFIRMATIVE** for the following;

**::REASONS::**

8. The present suit is filed by the plaintiff for the relief of permanent injunction and defendant has appeared and has filed Written Statement. In the Written Statement defendant has specifically challenged the title of the plaintiff. Even in the paragraph 12 of the written statement the defendant has specifically stated in regard to the proceedings with respect to the suit property before the Land Tribunal, Hadagali. Defendant has also made efforts to secure the documents from the office of Tahsildar by appropriate procedure. However, the

Tahsildar has given an endorsement inconsistent to the application filed by the defendant. It is felt necessary to summon the documents from the office of Tahsildar sought by the plaintiff in order to effectively adjudicate the suit. Presently the matter has set down for further chief of DW.1 and it is felt necessary that those documents are required to support the pleadings in the written statement already pleaded by defendant. Thereby it is felt necessary to summon the documents from the office of Tahsildar as sought by the defendant in the present application. As a result proceed to pass the following:

**:ORDER:**

- *IA No.5 filed by the defendant is allowed.*
- *Issue notice to Tahsildar summoning the documents with respect to the case No.788/1975-76 dated 03.09.1982 by the Land Tribunal, Hadagali along with*

*judgment and entire order  
sheet of the said case.*

- *Issue notice to Tahsildar  
summoning the spot inspection  
report of the Tahsildar with  
respect to the suit property.*
- *Call on 23.08.2023*

**Date: 14-07-2023**

**(Veresh Kumar C.K)**  
Civil Judge and JMFC.,  
Hadagali.