



**ORDER BELOW EXH. 61 IN Spl.C.S.No. 430/2022**

**Prabhakar Kale versus Dilip Kale, etc.**

**CNR No. MHKO020036582022**

Plaintiff moved application for issuance of witness summons concern officer of the Rajarampuri Police Station to prove the NCR bearing No.0372/2022 dt.23.8.2022, which was reported by his son Pramod Prabhakar Kale.

2. The plaintiff also prayed to issue witness summons to the concerned officer of the Assistant Director, Town Planing Department, Kolhapur Municipal Corporation, Rajarampuri Office, Kolhapur in order to prove the report bearing outward No.1/3304 dt.22.12.2020, which is reported against the illegal encroached construction of defendant No.3.

3. The plaintiff prayed to issue witness summons as prayed and directed him to remain present for evidence along with the relevant documents. The plaintiff submitted that he is ready to pay the witness bhatta at the time of recording evidence.

4. The defendants filed say and objected the application. The defendants submitted that the plaintiff not filed witness yadi in the present suit. No reason to issue witness summons as per application. Therefore, application be rejected.

5. Perused the relevant provisions. Order XVI Rule 1(3) of the Code of Civil Procedure empowers the Court to call an unlisted witness only if the party shows the sufficient cause and explain the reason for omission. Perusal of the plaint, it appears that he inherited the suit property from his mother along with defendant No.1 to 3 as common

property. There is no express partition of the suit property, however, every co-owner enjoyed the property as per their mutual understanding. The plaintiff in para 6 of the plaint, specifically contended about the alleged encroachment and filing of report with the concerned authority on 22.12.2020. Similarly the plaintiff in para 8 stated about the filing of NCR with Rajarampuri Police Station by him and his son. The plaintiff filed the said reports along with plaint. A municipal officer provides technical verification of property lines and building violations using official maps and surveys, while a police officer maintains public order and provides executive enforcement. The plaintiff wants to establish legal proof regarding the alleged encroachment of defendant No.3. Thus, it will be appropriate to issue witness summons to the concerned witnesses. Hence, I pass the following order:-

**ORDER**

1. Application is allowed.
2. Issue summons to the witness as prayed on witness bhatta.

Date:11.08.2026

( **N. A. Pathan** )  
3<sup>rd</sup> Jt. Civil Judge, Sr. Division,  
Kolhapur