

Order passed below Exh.63 in R.C.S.No. 471/2016
Mahesh Narendra Shinde & Ors. Vs. Dattu Shivappa Kabade

Present application is filed by the Plaintiffs for issuing witness summons.

2. It is the contention of the plaintiffs that, he has filed list of document vide Exh.4. Therefore, he desires to call Tahasildar along with the original record of Non- agriculture permission order bearing No.2015/Jama-1/ Kavi/745/1215 of the Tahsil Office, Tuljapur for giving his evidence.

3. Ld. Advocate for the Defendant filed his say on the overleaf of the present application. Ld. Advocate for the Defendant has stated that, witness summons cannot be issued to the Tahasildar. Therefore, he has prayed for rejecting the application.

4. Perused the application and say filed. Heard Ld. Advocate for the plaintiffs and Defendant.

5. Present suit is filed the purpose of perpetual injunction. It is the contention of the plaintiffs that, they have purchased suit property block No.32, of western side portion 1 H. 48 R from Fulabai Pandurang Bansode by registered sale deed No. 1531/2013 for the consideration of an amount of Rs.2,30,000/-. Further, they have again purchased suit property block No. 32, of western side portion 0 H 40 R from Dattu Sivappa Kabade by registered sale-deed No. 3493/2013 for the consideration of an amount of Rs.70,000/-.

6. Further, it is the contention of the plaintiffs that, they are owners and possessors of the suit properties. Further,

Plaintiffs in the Para No. 5 has specifically mentioned that, Tahasildar has sanctioned non-agriculture permission to the suit land in the name of the plaintiffs. However, defendant in the Para No. 6 of the his written statement has denied the same. Further, defendants in the Para No. 11 (ऐ) of written statement has stated that plaintiffs have fraudulently and without his consent obtained non-agriculture permission of the suit property.

7. Therefore, from the rival contention of the plaintiffs and defendant it appears that, there is dispute between them about the fact that, whether the non-agriculture permission obtained by the plaintiffs or not. Therefore, the evidence of the witness desired by the plaintiffs is essential in determining the controversy between the both the parties. Further the contention of the defendant that, witness summons cannot be issued against Tahasildar is baseless as this court has every power to issue witness summons against Tahasildar. Therefore, the present application deserves to be allowed. Therefore, I pass the following order.

ORDER

1. Application below **Exh.63** is allowed.
2. Issue witness summons to the Tahasildar, Tuljapur as mentioned in the application after payment of necessary witness bhatta.
3. Cost in cause.

Date : 08.10.2024.
Place : Tuljapur.

(K. S. Kulkarni)
2nd Jt. Civil Judge, Junior Division,
Tuljapur.

CERTIFICATE

I affirm that, the contents of this P.D.F. file Judgment/order are same, word to word, as per the original Judgment/order.

Name of Stenographer	- V.M. Gaikwad, Stenographer Gr. III (On Deputation)
Court	- 2 nd Jt.CJJD & JMFC Tuljapur
Date	- 08.10.2024
Order signed by the Presiding Officer on	- 08.10.2024
Order uploaded on	- 08.10.2024