

CNR NO.MHST-0500-0462-2015

**IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD**  
**ORDER BELOW EXH. 58**  
**IN**  
**Civ. M.A. No.103/2015**

1. Smt. Jyoti Somnath Gurav & Ors.	...Applicants
<i><b>Versus</b></i>	
1. Smt. Malan Nivrutti Gurav & Ors.	...Respondents

Advocate Mr. V. P. Mule for the applicants.

Advocate Mr. B. J. Shinde for the respondent No.1.

Advocate Mr. N. B. Jadhav for the respondent Nos.2 and 3.

Coram : S. B. Todkar,  
C.J.S.D. Karad.  
Date : 04/07/2024

**ORAL ORDER :**

This is an application filed by Ld. advocate of applicants for issuance of witness summons to the witness.

2. Perused the application and handwritten say given by Ld. advocate for respondents on the application overleaf. Heard both sides.

3 As per the contents of the present application and argument of the Ld. advocate for the applicants, the applicants have to examine the witness mentioned in the present application for the purpose of proving fact that though Nivrutti Atmaram Gurav has obtained loan from Bank of India but her husband Somnath Nivrutti Gurav has paid the said loan amount. This fact is important for the decision of the main application and to decide the real controversy between the parties. Hence, the application.

4. It appears from the record that applicants have filed present application against none of the persons for heirship certificate on the grounds specifically mentioned in the application. After issuance

of citation and publication notice respondents/ third persons appeared before Court and opposed the application by filing their objections at Exh.13. That application of third party is allowed by Court on 15/03/2016 and directed the applicant to implead the third parties as respondents. Thereafter, respondents have filed their say at Exh.15. My Ld. Predecessor has framed issues at Exh.56. Now, application is pending for hearing of main heirship application. Thereafter, applicants have filed their evidence on record. The evidence of applicants is going on. Meanwhile, on behalf of applicants present application is filed. I have gone through the issues framed by my Ld. Predecessor. My Ld. Predecessor casted duty to prove issue No.1 on the applicants and issue No.2 on the respondents. It is settled legal position that Court may permit the party to call any other witness provided the party who desires to examine any such witness whose name is not included in the list of witnesses, show sufficient cause for omission to mention the name of such witness in the said list and the court has to record reason for permitting the party to examine the witness whose name was not included in the list. By way of present application, the applicants are praying for permission to examine the witnesses for the purpose of proving the repayment of loan by deceased Somnath. This fact/allegation is important for deciding the real controversy involved between the parties. It appears from the contents of present application that the applicants have given sufficient reason for what purpose they wants to examine the witness. In my considered opinion, the evidence of concerned witness is relating to real controversy between the parties. Considering the nature of the application, rival pleadings of the parties and burden to prove pleadings, it is necessary to give full and fair opportunity to both the parties to prove their case and pleas. The evidence of mentioned witness in the present application appears to be

necessary for deciding the heirship certificate. Hence, I proceed to pass the following order.

**ORDER**

Issue witness summons to the witness mentioned in the present application for his examination on depositing necessary *Bhatta* as per rule.

Date : 04/07/2025.  
Place : Karad.

[S. B. Todkar]  
Civil Judge S.D. Karad.