

### **ORDERS ON I.A.NO.V**

The Plaintiff has filed the present application when the matter is posted for further evidence of plaintiff.

2. I.A. No.V is filed by the plaintiff U/Order 16 rule 1(3) and Sec.151 of C.P.C. to pass an order for issuance of summons to the witnesses list and permit to examine them.

3. In the accompanying affidavit it is stated by the Plaintiff that, he has filed the suit based on will dated 24-12-1999, the witness No.1 and 2 cited in the application are the attesting witness to the said Will and witness No.3 is the son of scribe of the Will who is competent witnesses to identify the signature of the scribe who is no more now. Hence, in order to mark and prove the

Will dated 24-12-1999, the examination of witnesses listed in the application is very much necessary. No hardship will be caused to the respondent if the I.A. is allowed. On the other hand, if the I.A. is rejected, plaintiff will be suffer and great loss and hardship. Hence, prays to issue the summons to the witnesses list.

3. Per-contra, counsel for defendant files the objection to I.A.No.V contending that, the application is not maintainable on law or on the facts of the case. The application is filed at the belated stage and not shown the sufficient cause and not furnished the witness list in the earlier stage. Petitioner cannot file the list of witnesses as per his whims and fancy. Hence, prays to reject the application.

4. Heard both sides. Perused the records.

5. The plaintiff has filed the suit against the defendant for the relief of Declaration to declare that the Will dated 24-11-1999 executed by Prabhakara Melnadu is valid Will and plaintiff acquired 7/18<sup>th</sup> right, title and interest over the plaint 'B' schedule property. I.A.No.V filed by the plaintiff to receive the witnesses list. It is the general principle that, each parties to the suit is to be given fair opportunity to prove their case by giving evidence in support of their case.

Therefore, the objection of the defendant cannot sustained. The delay may be compensated by imposing cost. Therefore I proceed to pass the following-

**ORDER**

I.A.No.V filed by the Plaintiff  
U/O 16 Rule 1(3) and Sec.151 of  
C.P.C. is hereby allowed on cost of  
Rs.200/-.

Call on 04-03-2025.

Civil Judge & JMFC.,  
Sullia, D.K.