



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

A.No.1597 of 2025

in

C.S.No.264 of 2024

Mr.S.Kamalchand Baid,
S/o.R.Simbumall Baid,
No.47, North Mada Street,
Mylapore, Chennai-600 004.

...Applicant/
1st Defendant

v.

1. Mr.K.Mahendar Baid
S/o.S.Kamalchand Baid.

2.Mr.M.Vivek Baid
S/o.K.Mahendar Baid

3.Mr.Vishal Baid
S/o.K.Mahendar Baid

...Respondents 1to3/
Plaintiffs

4.Mr.Ajay Marlecha
S/o.Narendar Marlecha

5.Mr.Akshay Marlecha
S/o.Narendar Marlecha

1/5



6. Mr.K.Vijaykumar Baid
S/o. S.Kamalchand Baid

7. Ms.V.Bhavna
D/o.K.Vijayakumar Baid

8. Ms.V.Perna
D/o.K.Vijayakumar Baid

9.Mr.V.Dhaman
S/o.K.Vijayakumar Baid

... Respondents 4 to 9/
Defendants 2 to 7

PRAYER: Judges summons filed under Order XIV Rule 8 of Original Side Rules read with Order 18 Rule 16 of the Code of Civil Procedure praying to permit the 1st defendant to examine himself as a witness DE BENE ESSE in the above suit.

For Applicant	: Mr.T.S.Baskaran
For Respondents	: Mr.K.V.Babu for R to R3
	No appearance for R4
	No appearance for R6

ORDER

This application is filed to permit the first defendant to examine himself as witness DE BENE ESSE in the above suit.

2. According to the applicant, he is the first defendant in the



main suit. The main suit was filed by respondents 1 to 3/plaintiffs for the relief of partition and declaration. The applicant/first defendant had already filed the written statement. There is no coparcenery property both movable or immovable properties that remains to be divided among the plaintiffs, first and fourth defendant. The plaintiffs, first and fourth defendants had already divided the joint family properties in the year 1975 itself and the Hindu Undivided Family which was existing in regard to the some of the properties ceased to exist after 2017. The suit items 1 to 6 self-acquired properties of the first defendant. Now the first defendant is 87 years old and the plaintiffs' side evidence is yet to commence. Due to old age and illness, he has undergone bypass surgery. Therefore, his hearing capacity is deteriorating slowly due to aging. While he is in sound state of mind, he wanted to complete all his responsibilities. Therefore, he want to examine himself as witness in the above suit as *de bene esse*. Therefore, he filed this application.

3. On the other side, there is no objection and fairly conceded that the first defendant aged about 87 years.



WEB COPY

4. Considering the reasons stated in the affidavit, considering the age of the first defendant and so far trial has not been commenced, it is appropriate to allow this application. Accordingly, this application is allowed. The applicant/first defendant can be examined as defendant's side witness in the above suit immediately. No costs.

kal

15.10.2025**($\frac{1}{2}$)**



WEB COPY



5

P.DHANABAL J.

kal

**A.No.1597 of 2025
in
C.S.No.264 of 2024**

13.10.2025
($\frac{1}{2}$)

5/5