

KABD310006932018



**IN THE COURT OF THE PRL. CIVIL JUDGE AND
JMFC, BASAVAKALYAN.**

Dated this the 20th day of July 2026

PRESENT

Sri. Dynaneshwar Vittal Malagi,
B.A., L.L.B.,
Prl. Civil Judge & JMFC,
Basavakalyan.

O.S No.51/2018

Plaintiff : Babu S/o Gunapati and others.

(By Sri. AAD. Adv.)

//Vs//

Defendants : Khushalbai W/o Venkatrao and others

(D1 & 3 exparte)
(D2 By Sri. BSK., Adv)
(D2 By Sri. RGA., Adv)

i)	Provision under which the application is filed	U/o 26 rule 9 R/w sec. 151 of CPC.
ii)	Relief sought for	For Appointment court commissioner
iii)	The date on which the application is filed	10-10-2023
iv)	Number of the application	IA No.9

v)	The date on which the objection is filed by different opponents	19-02-2024
vi)	The date on which the order were passed on the said application	20-07-2026

Orders on IA No.9

1. The plaintiffs have filed the IA No.9 under order 26 Rule 9 R/w sec. 151 of CPC for appointment Court commissioner to spot inspection.

2. In the affidavit annexed with IA No.9 the plaintiff No.3 stated that, they have filed the suit for declaration and other reliefs against the defendants and the matter is posted for arguments. They have produced the photo copy of suit land to show that there is samadi of Venkoba in the middle of suit land. But the defendants have denied the same. Further the defendants denied possession of plaintiff in the suit land in his cross examination. Hence, to ascertain the possession over the suit property. It is just necessary to Court commissioner for local inspection. Hence, he prayed to allow the application.

3. Per contra the defendant No.4 & 5 have filed objection to said application wherein they stated that, the plaintiffs have filed the present application to drag the proceedings with a malafide intention to harass the defendants. The plaintiffs have filed the present application in ulterior motive to filling up the

lacuna in their case. The instant application of plaintiff is not maintainable at belated stage. Hence they prayed to reject the said application.

4. Heard the plaintiff and defendants counsels. Perused the available materials on records.

5. The points that arises for my consideration are as under:

1. Whether the applicant/plaintiffs have made out grounds to allow this application U/o 26 Rule 9 R/w Sec.151 of CPC ?
2. What Order?

6. My answer to the above points are as under:

Point No.1 : In the Affirmative;

Point No.4:- As per the final order for the following;

REASONS

7. **Point No.1:** The plaintiffs have filed the suit for declaration of ownership and permanent injunction in respect to suit property. When the case was posted for arguments, the plaintiff no.3 has filed the present application to appoint the Court Commissioner for local inspection of suit property. It is relevant to refer here the provision of order 26 rule 9 of CPC which reads as under;

9. **Commissions to make local investigations.**—*In any suit in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual net profits, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court:*

8. On perusal of said provision of law it is clarified that the court can appoint Court commissioner for local investigation *for the purpose of elucidating any matter in dispute*. In the present case the plaintiffs have claiming they have owner and possessor of suit land sy.no.36/3 measuring 3 acre 22 guntas and perpetual injunction as against defendants restraining them for interfering and obstruction over the suit property. On other hand the defendant no.4 & 5 denied the ownership of plaintiffs and possession over the suit property. On contrary they have claiming that they are owner and possessor of the suit land Sy.no.36/3 measuring 3 acre 22 guntas. The plaintiffs stated that, there is samadhi of one Venkoba in middle of the suit land and further the plaintiffs taken contention that, due to technical fault at the time

survey settlement the survey numbers and hissa numbers of land of plaintiffs and defendants were changed. But said facts denied by the defendants. Hence, it is just and necessary to appoint the ADLR to survey both lands of plaintiffs and defendants to ascertain the real facts of the case. **Accordingly point no.1 answered in Affirmative.**

9. **Point No.2 :** In view of the above reasons, I proceed to pass the following :

ORDER

IA No.9 filed by the plaintiff No.3
under order 26 Rule 9 R/w sec.151 of
CPC is hereby allowed.

Consequently, the ADLR
Basavakalyan is appointed as Court
Commissioner.

(Dictated to the Stenographer directly on computer and typed by her, corrected and then pronounced by me in the open court on this the 20th day of July 2026).

**Prl. Civil Judge & JMFC.,
Basavakalyan.**