

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 10-A CPC R/w sec. 151 of CPC.
ii)	Relief sought for	For Appointment of Court Commissioner.
iii)	The date on which the application is filed	09-01-2024
iv)	Number of the application	IA No.10

v)	The date on which the objection are 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.10

1. The plaintiffs have filed the IA No.10 under order 26 Rule 10-A CPC R/w sec.151 of CPC and in the affidavit annexed with IA No.10 the plaintiff No.3 stated that, they have filed the suit for declaration and other reliefs against the defendants and the matter was posted for arguments. The defendant no.4 has disputed the signature on Ex.P10 and he admitted signature on Ex.D2 which are one and the same. Therefore it is just necessary to ascertain the real facts of the case, the comparison of signature on Ex.P10 and Ex.D2 are necessary. Hence they prayed to allow said application.

3. Per contra the learned counsel for defendant No.4 & 5 has filed objection to said application wherein he contended that, the plaintiffs have filed the present application to drag the proceedings. The plaintiff no.2 is examined as PW1 herself has not identified the signature on Ex.P10 then the question of DW1 admitting the signature on Ex.P10 does not arise. The plaintiffs have filed the present application ulterior motive for filling up the lacuna and intended to collect the evidence. Hence prayed to reject the said application.

4. Heard the learned counsel for plaintiffs and defendants.
Perused the materials available on records.

5. The following points would arise for consideration ;

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 Negative;

Point No.2:- 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 comparing the signature of DW1 . It is relevant to refer here the provision of order 26 rule 10(A) of CPC ;---

10A. Commission for scientific investigation.

(1) Where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be

conveniently conducted before the Court, the Court may, if it thinks it necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court.

(2) The provisions of rule 10 of this Order shall, as far as may be, apply in relation to a Commissioner appointed under this rule as they apply in relation to a Commissioner appointed under rule 9.

8. On perusal of said provision of law it is clarified that the court can appoint Court commissioner for scientific investigation where any question in suit involves any scientific investigation which cannot in the opinion of the Court be conveniently conducted before the Court and if it thinks it necessary. The counsel for plaintiffs taken contention that, the defendants executed the sulanama (consent deed) for conducting survey of suit land. The same is denied by the defendant no. 4 & 5. Admittedly the plaintiffs have filed this suit for declaration of ownership and perpetual injunction in respect to land sy.no 36/3 measuring 3 acre 22 guntas. The defendant no. 4 & 5 denied the title of the plaintiffs over suit land and also denied the execution of said sulanama. The plaintiffs have to prove their ownership

over suit land by providing the acceptable and believable evidence and even if the plaintiffs proved said documents it cannot be held that, the plaintiffs are owner and possessor of suit property and if the plaintiffs have successfully established their ownership over land sy. no.36/3 measuring 3 acre 22 guntas then they have every right to reification of said ROR and also the plaintiffs can prove said document by way of other mode. Hence, I consider view that the plaintiffs have not made out grounds for allow the said application. **Accordingly I answered point no.1 in the Negative.**

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

ORDER

IA No10. filed by the plaintiff No.3
under order 26 Rule 10-A CPC R/w
sec.151 of CPC is hereby rejected

No order as to cost.

(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.**