

Contd...

09.02.2026

For Orders on IA No.I

ORDERS ON IA NO.I

This application is filed by the petitioners under Section 92 read with 151 of Code of Civil Procedure ('CPC' for short) read with Rule 16-A of Karnataka Civil Rules of Practice, 1967 to allow the petition by dispensing with notice to the respondents and order to register the original suit.

2. I have heard the arguments of the learned counsel for the petitioners

3. This petition is filed under Section 92 of the CPC to grant leave to file a suit under Section 92 of CPC. The petitioners have produced the plaint of proposed suit, wherein they sought relief of declaration to declare the defendant No.3 as Uttardhikari of the defendant No.1 trust as per the registered Uttardhikari Patra dated 04.05.2023 and directing the defendant No.2 to hand over the administration and other rights of Peethadhikari of defendant No.1 Math to the defendant No.3 Math as per the terms and conditions mentioned in the Uttaradhikari Patra dated 04.05.2023 and directing the defendant No.2 to hand over the

administration and other rights of defendant No.4 trust to the defendant No.3.

4. I have perused the petition averments, plaint averments, affidavit filed in support of the IA No.I and the documents produced by the petitioners along with the petition.

5. As per the Section 16-A of the Karnataka Civil Rules of Practices, 1967, an application to seek leave to file suit under Section 92 of CPC shall be disposed of after giving an opportunity of hearing to the applicants. The proviso to Rule 16-A (4) says that, if the Court consider necessary to hear the opposite party also, the Court may order issue notice to the opposite party and pass an order on the application, after giving an opportunity of hearing to both the parties.

6. So hearing opposite party before granting leave depends upon the facts and circumstances of the case. Even though the law provides that the leave under Section 92 of CPC can be granted even without hearing opposite party, it is only an exception. The normal rule is to hold an enquiry and grant leave, after hearing

opposite party. It appears from the facts of this case and the documents produced by both the parties that there is serious dispute between the parties in respect of the trust and Uttaridhakari to manage the trust and Math. Under such circumstances, I am of the opinion that the respondents are to be heard before granting leave to institute the suit. I have not found any ground to allow the IA No.I and order for registration of the suit by dispensing with the notice to the respondents and dispensing holding an enquiry on the miscellaneous petition. The decisions relied upon by the petitioners are not helpful to the cause of the petitioners, considering the facts and circumstances of the present case. Hence, I proceed to pass the following order:

ORDER

IA No.I filed by the petitioners under Section 92 read with Section 151 of CPC and Rule 16-A of Karnataka Civil Rules of Practices, 1967, for allowing the miscellaneous petition by dispensing with the issuance of the notice to the respondents, is rejected.

This Court is of the opinion that the respondents are to be heard before granting leave. Accordingly, issue notice of petition to the respondent No.1 to 4.

Returnable by 28.02.2026.

**(Manjunath Nayak)
Prl. District & Sessions Judge,
Belagavi.**