

Order Sheet
In the Court Of: PRL. CIVIL JUDGE AND JMFC BELAGAVI
AT BELGAUM
F.R.No:O.S./1682/2013
Case Reg.No: O.S./1680/2013

Plaintiff

V E R S U S

Defendent

**1)Smt. Parvati Wo. Babu Gojgekar @
Kolkar &3 others**

**2)Shri. Ganapati So. Babu Gojgekar
@ Kolkar**
**3)Shri. Nandu So. Babu Gojgekar @
Kolkar**

**1)Smt. Taulasabai Do. Appayya Kolkar
&48 others**

2)Shri. Rama So. Fakira Kolkar
3)Smt. Mayawwa Wo. Rama Kolkar
4)Shri. Vijay So. Rama Kolkar
5)Smt. Shoba Do. Rama Kolkar
6)Shri. Sunil So. Rama Kolkar
7)Shri. Rajesh So. Rama Kolkar
8)Shri. Arun So. Rama Kolkar
9)Shri. Santosh So. Rama Kolkar
10)Shri. Sachin So. Rama Kolkar
11)Shri. Anil So. Rama Kolkar
12)Smt. Kusma Wo. Hanumant Kolkar
13)Smt. Vandana Do. Hanumant Kolkar
14)Smt. Kaveri Do. Hanumant Kolkar
15)Smt. Veena Do. Hanumant Kolkar
16)Smt. Trupti Do. Hanmant Kolkar
17)Shri. Niranjana So. Hanumant Kolkar
18)Shri. Mahadev So. Fakira Kolkar
19)Smt. Laxmi Wo. Mahadev Kolkar
20)Smt. Savita Do. Mahadev Kolkar
21)Shri.Amrut So. Mahdev Kolkar
22)Shri. Aman So. Mahadev Kolkar
23)Miss. Tanuja Do. Mahadev Kolkar
**24)Smt. Lata Wo. Vijay Gojgekar @
Kolkar**
**25)Smt. Vidya Do. Vijay Gojgekar @
Kolkar**
26)Smt. Rani Do. Vijay Gojgekar @

Kolkar

**27)Shri. Vinod So. Vijay Gojgekar @
Kolkar**

**28)Shri. Shrikant So. Chudappa Gojgekar
@ Kolkar**

**29)Smt. Jankabai Wo. Basappa Gojgekar
@ Kolkar**

**30)Shri. Narayan So. Basappa Gojgekar @
Kolkar**

**31)Changaleshwari Do. Basappa Gojgekar
@ Kolkar**

32)Arta Do. Basappa Gojgekar @ Kolkar

**33)Leelavati Do. Basappa Gojgekar @
Kolkar**

**34)Malleshi Do. Basappa Gojgekar @
Kolkar**

**35)Shri. Arun So. Mallappa Gojgekar @
Kolkar**

**36)Shri. Vijay So. Mallappa Gojgekar @
Kolkar**

**37)Shri. Dhulappa So. Laxman Kamble @
Kolkar**

**38)Smt. Tulasbai Do. Laxman Kamble @
Kolkar**

**39)Smt. Suganda Do. Dhulappa Kamble @
Kolkar**

**40)Shri. Manohar So. Dhulappa Kamble
@ Kolkar**

**41)Shri. Piraji So. Kallappa Kamble @
Kolkar**

**42)Shri. Pundlik So. Kallappa Kamble @
Kolkar**

**43)Shri. Suresh So. Gundu Kamble @
Kolkar**

44)Smt. Tulasbai Wo. Hanumant Kolkar

45)Shri. Vishnu So. Hanumant Kolkar

46)Smt. Sunita Wo. Balkrishna Haveri

47)Smt. Anita Wo. Nandkumar Shingade

**48)Smt. Sheela Wo. Kempanna
Nijakannavar**

Orders on I.A.No.3

I.A.No.3 is filed by defendant No.29 to 36 praying to permit them to file written statement in the present case. In the affidavit sworn to by defendant No.30 it is sworn that defendant No.29 to 36 have appeared before the Court on 5-12-2015 and had filed an interim application to stay the proceedings in O.S.No.1320/2010. It is further sworn that the said suit came to be dismissed on 5-6-2017 against which a Regular Appeal bearing No. /2017 came to be preferred and the said appeal is posted for appearance of parties as on the day. In this regard it was not possible to defendant No.29 to 36 to file their written statement. In the light of the above background present I.A.No.3 is filed.

My predecessor in office has placed defendant No.34 as exparte to the suit vide order dated 5-12-2015 and thereafter the matter was pending for hearing by both sides. There is nothing on record to show that the defendant No.34 was duly served with the suit summons and notices of the Court.

Learned counsel for the plaintiff submits that defendants though have entered appearance on 5-12-2015 have not filed their written statement after lapse of more than 1 and ½ years and now they have come up with an application at I.A.No.3 praying to permit them to take their written statement on record. He further submitted that the said I.A.No.3 may be allowed on imposition of heavy cost.

I have perused the plaint averments, affidavit sworn to by defendant No.30 at I.A.No.3. It transpires that the suit is one for the partition and separate possession of the suit schedule properties. It is pertinent to note that in a suit for partition if the defendants are not permitted to file their written statement and put forth their defence, then the Court cannot adjudicate the rights of the parties and cannot demarcate the shares conclusively and if that is so, then there are chances of multiplicity of

proceedings on the same subject matter. Considering the submission made by both sides and on perusal of the records and being satisfied with the reasons assigned in the affidavit, I am of the opinion that I.A.No.3 is fit to be allowed. Hence the following:

Order

I.A.No.3 filed by the defendant No.29 to 36 is allowed as prayed for.

Defendant No.29 to 33 and 34 and 35 are permitted to file their written statement.

Considering delay of 1 & ½ years cost of Rs.1000/- is imposed on the defendants which shall be payable to the plaintiff.

Plaintiff is directed to take steps against defendant No.1 to 11, 13 to 14, 16 to 23, 38, 44, 45, 47 and 48.

Reissue suit summons to the above defendants if P.F. is paid r/by 22-9-2017.

IV Addl.CJ, Belagavi