

KABG040031012017



IN THE COURT OF IV ADDL. CIVIL JUDGE AND JMFC BELAGAVI.

PRESENT: Bhuvaneshwari D. BA, LLB (Hon's), LLM.
IV Addl. Civil Judge & JMFC.,
Belagavi.

Dated, on this 09th day of July , 2026

OS. No. 907/2017

PLAINTIFF:	1. Shri. Krishna Ningappa More, Age : 80 years, Occ : Agriculture, R/o: Rakaskop, Tal:Dist: Belagavi.
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V/s.

DEFENDANTS	1. Smt. Tulasabai Jakku Kanabarkar, Age : 70 years, Occ : Household work, R/o: Belagundi Village, Tal:Dist: Belagavi.
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ORDER ON I.A.No.III

APPLICANTS/
PLAINTIFF

Shri. Krishna Ningappa More

(By Shri. A. A. Patil, Advocate)

-AND-

OPPONENTS/
DEFENDANT:

Smt. Tulasabai Jakku Kanabarkar

(Rep. By Shri. G. R. Soner, Advocate)

PARTICULARS

i	Provision under which the application is filed	Order XII Rule 6 of C.P.C
ii	Relief sought for	Decree the suit in view of the admission given by defendant in their written statement
iii	The date on which the application is filed	20.01.2023
iv	Number of application	III
v	The date on which the objections are filed by different opponents	09.06.2023
vi	The date on which the orders were passed on the said application	09.07.2026

ORDER ON I.A.No.III FILED BY THE PLAINTIFF UNDER ORDER XII RULE 6 of CPC

This I.A. is filed under Order XII Rule 6 of CPC by the counsel for plaintiff seeking to decree the suit in view of the admissions given by the defendant in his written statement.

2. In the accompanying affidavit, it is contended by the power of attorney holder of the plaintiff that her father has instituted suit seeking relief of partition and separate possession and in the written statement filed by the defendant subsequent to his appearance it is contended by the plaintiff that the defendant has admitted that plaintiff is having ½ share as per the Judgment passed by the Hon'ble Hon'ble High Court of Karnataka, Dharwad Bench, in

R.S.A No. 5822/2012. In view of the same they have sought to decree the suit by exercising the power conferred under Order XII Rule 6 of CPC by filing this I.A.

3. The counsel for defendant has filed objections to the application submitting that plaintiff has pleaded false facts in the accompanying affidavit and defendant submitted during the life time of Smt. Balabai W/o Jakkappa Kanabarkar, she was joint owner of the suit property and after death of her elder brother Somanna Kanabarkar is said to have got his name mutated in the revenue records without bringing it to the knowledge of the defendant. she claims that she has not admitted about plaintiff having separate share in the suit property. On these grounds she has sought for dismissal of the application.

4. The counsel for plaintiff has relied on Judgment reported in *[2025] SCCR 604, Saroj Salkan Vs. Huma Singh and others* wherein it is held by the Hon'ble Apex Court that;

plaintiff may file an application to obtain Judgment upon admission by defendant in his written statement at any stage of suit although he has joined issue on defence.

5. Heard counsel for plaintiff Sri.AAP and counsel for defendant Shri. GRS.

6. After considering the materials placed on record and laying emphasis on the arguments advanced by the counsels, the following points arise for the determination of this Court;

POINTS

1. Whether the plaintiff has made out sufficient grounds to allow I.A.No.III filed under Order XI Rule 6 of CPC?
2. What order?

7. Upon perusal of the pleadings and taking note of the oral arguments addressed by the parties on the merits of the said application, this Court answers the aforementioned points as under;

- Point No.1 : In the Negative.
Point No.2 : As per the final order
for the following;

REASONS

8. **Point No.1:-** The suit is instituted as against the defendant by the plaintiff contending that plaintiff is entitled to ½ share in the suit property as per the Sale Deed. On the other hand, an issue has been framed by court on 08.04.2019 casting burden upon the plaintiff to prove that he is having ½ share in the suit property as per the Sale Deed dated 25.04.1995. If the written Statement filed by the defendant is perused at Paragraph No. 7 the following recitals can be found in which the defendant has admitted

that he is having ½ share in the earlier suit by way of oral partition and plaintiff is having ½ share in the suit property.

9. Order XII Rule 6 of CPC is extracted below *for ready reference*

6. Judgment on admissions.—(1) Where admissions of fact have been made either in the pleading or otherwise; whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question-between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.]

10. Order XII Rule 6 is not mandatory provision, it is discretionary provision which vests the court with discretion to Judgment passed on admission on any stage of the proceedings. This court would place reliance on the decision reported in **(2011) 7 SCCR 60 Himani Alloys Ltd V. Tata Steel Ltd** wherein the Hon'ble Apex Court has observed as reproduced below:

11. It is true that a judgment can be given on an admission contained in the minutes of a meeting. But the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order 12 Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore unless the admission is clear, unambiguous and unconditional, the discretion of the Court should not be exercised to deny the valuable right of a defendant to contest the claim. In short the discretion should be used only when there is a clear admission which can be acted upon.

12. If the said decision is perused this court cannot pass judgment on admissions, when admission is not clear and ambiguous and unconditional as the defendant has denied the same in his objections to this I.A. On perusal of the entire written statement placed on record it is imperative to note that admission of the defendant is not clear and categorical as provided under Order VIII Rule 5 of CPC. The Court has power to direct the parties to prove the facts which are admitted otherwise then such by admissions. Hence, in this suit the court deems it appropriate to direct the plaintiff to discharge the burden cast upon him in proving he is entitled to ½

share in the suit property independently on the strength of his own case otherwise than by those admission of the defendant. Accordingly, this Court answers Point No.1 in the Negative.

13. Point No.2:- Based on the findings of this Court on Point No.1, this Court proceeds to pass the following;

ORDER

I.A.No.III filed by the plaintiff under Order XII Rule 6 of CPC is hereby dismissed.

No order as to costs, keeping in view of nature of the suit.

(Dictated to the Stenographer Grade-III directly on computer, typed by her and the transcript revised and corrected by me and pronounced in the open Court, on this 09th day of July, 2026)

Sd/-

**(Bhuvaneshwari D.),
IV Addl. Civil Judge & JMFC,
Belagavi.**