

05-06-2026:

ORDER ON IA No.I

The present application is filed by the decree-holder under Order XXVI Rule 9 R/w. Sec. 151 of C.P.C., seeking appointment of an advocate as Court-commissioner to execute and register the sale deed on behalf of the Judgment-debtor in terms of decree passed in O.S. No.71/2019.

2. In the affidavit filed in support of the application, it is stated by the decree-holder that he had instituted O.S. No.71/2019 for Specific Performance of Contract and the said suit came to be decreed on 04-02-2020, in his favour. It is contended that despite repeated requests and demands, the judgment debtor

has failed and neglected to execute the sale deed in compliance with decree. It is further stated that no appeal has been preferred against said judgment and decree. Hence, the decree-holder has sought appointment of an advocate commissioner to execute the sale deed on behalf of the judgment debtor so as to give effect to the decree.

3. Though notice of the petition was duly served upon the judgment debtor, she remained absent and hence she has been placed ex-parte.

4. Heard the learned counsel for the decree-holder. Perused the application, affidavit and records.

5. The following points arise for consideration:

POINTS

1) Whether the decree-holder has made out sufficient grounds for appointment of an advocate commissioner to execute the sale deed on behalf of the judgment debtor in terms of the decree passed in O.S. No.71/2019 ?

2) What order?

6. My findings on the above points are as under:

Point No.1 : In the Affirmative

Point No.2 : As per final order, for the following:

REASONS

7. **Point No.1:-** It is evident from the records that O.S. No.71/2019 filed by the present decree-holder for Specific Performance of Contract was decreed on 04-02-2020. Certified copy of the Judgment and decree produced before the Court discloses that the judgment debtor was directed to execute the registered sale deed in favour of the plaintiff in respect of the suit properties.

8. The records further reveal that the decree as attained finality. There is nothing on record to show that the decree has been stayed, modified or set aside by any superior Appellate Court. Even after service of notice in the present execution proceedings, the judgment debtor has neither appeared before the Court nor shown any willingness to comply with the decree. The object of the execution proceedings is to ensure that the successful litigant obtains the fruits of the decree. When the decree for Specific Performance directs execution of a sale deed and that the judgment debtor fails or refuses to execute the same, the executing Court is empowered under Order XXI Rule 34 of CPC to cause the document to be executed through an officer appointed by the Court. Such power is

intended to prevent frustration of the decree and to secure effective enforcement thereof. In the present case despite sufficient opportunity, the judgment debtor has not come forward to execute the sale deed. Therefore, this Court is satisfied that appointment of an advocate commissioner to execute the sale deed on behalf of the judgment debtor is necessary for effective implementation of the decree. Accordingly, point No.1 arises for consideration is answered in the Affirmative.

9. **Point No.2:-** In view of the above findings and discussion made on point No.1, I proceed to pass the following:

ORDER

The IA No.1 filed by the decree-holder under Order XXVI Rule 9 of CPC is hereby allowed.

Miss. A. L. Patil advocate, member Bar Association Bailhongal, is appoint as Court- commissioner for the limited purpose executing and presenting for registration the sale deed in respect of the suit property on behalf of the judgment debtor in favour of the decree-holder in accordance with decree dated 04-02-2020 passed in O.S. No.71/2019.

The draft sale deed shall be preferred by the decree-holder and shall be placed before the Court for approval.

Upon approval of the draft sale deed, the Court-commissioner shall execute the same on behalf of the judgment debtor and taken necessary steps for its registration before jurisdictional Sub-Registrar.

The Commissioner shall submit a compliance report to this Court after completion of execution and registration of the sale deed.

The Court-commissioner fee is fixed at Rs.2000/-

Issue warrant of commission accordingly.

No order as to costs.

Await commissioner report call on 13-07-2026.

(Dictated to the stenographer, transcribed and computerized by him, then corrected by me and pronounced in the open Court on this that 5th Day of June 2026)

(Ravi Babu Chawan)
Senior Civil Judge, Bailhongal.

