

KABG310033912022



IN THE COURT OF I ADDL. CIVIL JUDGE AND J.M.F.C.,
AT: BAILHONGAL

:Present:

Shri. Basavaraja Thulasappa Nayaka.,
LL.M.

I Addl. Civil Judge and JMFC, Bailhongal

Dated this 19th day of February 2026

EP No.122/2022

1. Mr. Uday S/o Vasant Jainar @ Kelaginmani
Age: 23 years, Occ: Student,
R/o: Tigadi, Tq: Bailhongal,
Dist: Belagavi
2. Miss. Shashikala D/o Vasant Jainar @ Kelaginmani
Age: 22 years, Occ: Student,
R/o: Tigadi, Tq: Bailhongal,
Dist: Belagavi

(Plaintiff No.1 and 2 R/by their GPA holder)
Smt. Swati W/o Vasant Jainar @ Kelaginmani
Age: 44 years, Occ: Household work,
R/o: Tigadi, Tq: Bailhongal,
Dist: Belagavi

.....Decree Holder/Applicant

(By Shri. SSS Advocate)

V/s

1. Smt. Shantavva W/o Gangappa Sangolli
Age: 45 years, Occ: Household work,
R/o: Tigadi, Tq: Bailhongal,
Dist: Belagavi

.....Judgment Debtor/Opponent

(Exparte)

1.	Date of filing of IA No.III	19.01.2023
2.	Date of filing of objection	Nil
3.	Date of order	19.02.2026

ORDER ON IA No.III

The GPA holder of the Dhr has filed the present application U/o 26 rule 9 of CPC seeking appointment of Court Commissioner to demolish the illegal construction made in the suit property.

2. The GPA holder of Dhr in the affidavit filed along with application contended that a suit bearing OS No.134/2020 has filed by the Dhr seeking declaration, permanent injunction and mandatory injunction against the Jdr and others. After hearing the matter, the Hon'ble Court pleased to decree the suit on 26.09.2022. Further, this Court directed the Jdr to remove the illegal construction over the suit property. If the Jdr fails to remove the illegal construction, then Dhr can enforce the decree in accordance with law. But till this date, the Jdr has

failed to remove the illegal construction. Dhr requested many times to removal of the construction in the suit property. But the Jdr has not heed to any request nor removed the illegal construction over the suit property. Hence, prays for appointment of Court Commissioner to remove the illegal construction over the suit property. Hence, prays to allow the application.

- 3.** In spite of service of notice, the Jdr remained absent.
- 4.** Perused the records.
- 5.** The following points are arises for my consideration:

POINTS

1. Whether Dhr has made out grounds to allow IA No.III ?
 2. What order ?
- 6.** My answer to the above points are as follows”-
- Point No.1: In the affirmative.
- Point No.2: As per order for the following:

REASONS

7. Point No.1 :- The present petition is filed by the Dhr seeking execution of the decree passed in OS no.134/2020. The present application is filed seeking appointment of Court Commissioner to remove the illegal construction in the suit schedule property. According to the Dhr, the Jdr has not removed the construction inspite of request by the Dhr and has not complying the order of this Court.

8. On perusal of the judgment passed in OS No.134/2020, it appears that this Court on 26.09.2022 has decreed the suit and directed the defendant No.1 to remove the construction in the suit schedule property. According to the Dhr, the Jdr has not removed the construction in the suit property and comply the order of this Court. The Jdr in inspite of issuance of notice remained absent. Hence, the application is deserves to be allowed. Hence, I answer this point No.1 in the affirmative.

9. Point No.2: In view of the above discussions, I proceed to pass the following order portion:

ORDER

The IA No.III filed by the Dhr seeking appointment of Court Commissioner is hereby allowed.

Shri. IMH Advocate is hereby appointed as court commissioner to remove the construction in the suit property with the expense of the Dhr as per the order of this court.

Commissioner fee payable is Rs.3,000/-.

No order as to cost.

(Dictated to stenographer typed by him, corrected by me, then pronounced in the open court on this the 19nd day of February 2026)

Sd/-
**I Addl. Civil Judge and JMFC
Bailahongal.**