

**ORDERS ON I.A. NO.V FILED BY DEFENDANT
NO.2 U/O. XXVI RULE 9 R/W. Sec.151 OF CPC,**

The learned counsel for the defendant No.2 has filed IA No.V U/O. XXVI Rule 9 R/W. Sec.151 of CPC praying to appoint ADLR, Bailhongal as Court commissioner for measurement of the suit property to submit report and prepare P.T. sheet and also to ascertain in which Survey number the suit property shown/described in the plaint is located in the interest of justice and equity.

The learned Counsel for the plaintiff has not filed any objection to this IA.

Heard and perused all the available materials on record. This suit is for the relief of permanent injunction. It is the allegation of plaintiff that the defendants are trying to encroach in the suit property. On the other hand it is the contention of the defendant No.2 that they have not encroached in the suit property shown in the plaint is part and parcel of the land measuring 04 acre 00 guntas, allotted to the defendant No.2 by defendant No.1 in RS No.87-A measuring 16 acres, 01 guntas (previously bearing RS No.87 measuring 19 acre 21 guntas). Hence, it is necessary to ascertain the location of the suit property in which the survey number the suit property is situated and also to measure and fix the boundaries of the land allotted to the defendant No.2. For this reason to

bring the real picture before the Hon'ble Court it is very much necessary to appoint ADLR, Bailhongal as Court Commissioner. Hence, prays to allow the IA. On the other hand defendants have not filed any objections.

I have perused the materials available on record. The plaintiff has filed this suit for the relief of permanent injunction.

The plaintiff asserts that the defendants have illegally and high handedly encroached upon the suit property. Therefore, under such circumstances it is just and necessary to appoint Court commissioner to ascertain the fact of encroachment. If so, to ascertain the extent of encroachment of suit property. Hence, the present application deserves to be allowed. With these observations, I proceed to pass the following;

ORDER

The IA No.V filed by the defendant No.2 U/O.XXVI Rule 9 R/W. Sec.151 of CPC is hereby allowed.

The ADLR, Survey Department, Bailhongal is hereby appointed as Court commissioner.

The Court Commissioner fee is fixed as Rs.1,000/-.

The defendant No.2 shall submit the required documents and fee to carry on the Commissioner work. Both parties shall file the memo of instructions if any. Hence, for steps.

Call on 13.01.2025.

12.12.2024

Civil Judge & JMFC., Kittur.