

IN THE COURT OF THE CIVIL JUDGE & JMFC, SANDUR

:: PRESENT ::

Sri. Md. Shaiz Chouthai,

B.A.,LL.B.(Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur.

Dated: 22nd day of January, 2026

O.S. No.180/2021

Plaintiff/s : Vinoda D/o Veerapura Siddappa
@ Virupapura Siddappa, and Another.

(By Sri. M.B.H., Advocate)

V/S

Defendant/s : Veerapura Siddappa @ Virupapura Siddappa
S/o Late Basappa, and Another.

(D-1 By Sri. H.M.K., Advocate)

(D-2 By Sri. V.T., Advocate)

I.A.No.III

Applicant : Vinoda D/o Veerapura Siddappa
@ Virupapura Siddappa, and Another.
(Plaintiffs)

V/S

Opponent/s : Veerapura Siddappa @ Virupapura Siddappa
S/o Late Basappa, and Another.
(Defendants)

ORDER ON I.A.No.III FILED UNDER ORDER XVI

RULE 6 R/W SEC. 151 OF C.P.C. BY THE PLAINTIFF NO.2

1. The instant application is filed by plaintiff No.2 with a prayer to call for documents such as list of devadasi for the year 1993-94 and also the bank account of Eramma D/o Jogaiah @ Jogera Thippaiah, Hirehal village, Sandur taluk. The application is filed on 14.08.2024 when the matter was posted for cross of DW1.

2. It is submitted that the defendant No.1 alleged in the written statement that Eramma is his legally wedded wife but, she is a devadasi and taken Government benefits. She is not the wife of defendant No.1. According to applicant, defendant No.1 is married to defendant No.2 and they have 2 children out of their wedlock i.e., plaintiff No.1 and 2.

3. It is submitted that the applicant could not secure the documents as called for in the application. Those documents are material to prove the contentions of the plaintiffs. The concerned authorities have failed to handover the records to the applicant in spite of repeated requests and demands. On these grounds, the applicant prays to allow his application.

4. Defendant No.1 has filed objections and prayed to dismiss the same. According to him, the documents mentioned by the applicant are public documents and anyone can obtain such documents from the concerned authorities. The applicant has not made any efforts to obtain those documents from the concerned authorities. The applicant has not given reasonable explanation as to the purpose of the said documents. PW1 has categorically admitted the averments made in the written statement. The application is filed only to drag on the proceedings. On these grounds, he prays to dismiss the application.

5. Both plaintiffs and defendants have not argued on the

application. Perused the records.

6. This suit is filed by the plaintiffs against defendant No.1 and 2 for the relief of partition and separate possession in respect of suit land bearing Sy. No.240, measuring 3.50 acres, situated at Kalingeri village, Sandur taluk. According to plaintiffs, they are the children of defendant No.1 and 2, and form Hindu undivided joint family.

7. The defendant No.1 appeared and filed written statement contending that he married one Eramma and out of their wedlock two children are born who are named Virupakshi and Hampamma. He alleged that under the compulsion of family members of defendant No.2, he was forcibly contracted second marriage with defendant No.2. The said marriage is during the subsistence of the first marriage with Smt. Eramma, which is null and void.

8. The plaintiffs have sought to call the list of devadasi for the year 1993-94 and also the account statement of Eramma

D/o Jogaiah @ Jogera Thimmaiah. The applicant did not state from whom such documents are to be called. It is also not stated how those documents are necessary to prove the case of the plaintiffs. In other words, the purpose of those documents for adjudication of the matter is not stated. At the same time, the applicant has not stated what efforts he has made to secure those documents from the concerned authorities before applying to the court seeking those records. In the absence of this exercise, the applicant cannot seek the directions from this court to call for those records.

9. It is for the plaintiffs to prove that they are the children of defendant No.1 out of the wedlock from defendant No.2. This cannot be done by securing the documents as sought in the application. It is admitted by PW1 during cross-examination that Smt. Eramma is second wife of defendant No.1. Whether she is second or first wife cannot be established by securing the documents as sought. What is to be noted is that, PW1 has admitted Eramma as wife of defendant No.1. Moreover, as stated

above the documents sought to be produced are the public documents. Therefore, this court cannot summon those documents when the party can very well obtain it from the concerned authorities. Hence, for the above said reasons, I proceed to pass the following:-

ORDER

IA. No.III filed U/O XVI Rule 6 R/W Sec.
151 of C.P.C., is hereby rejected.

(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 22nd day of January - 2026).

(Md. Shaiz Chouthai)
Civil Judge & J.M.F.C., Sandur.