

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: 30th day of August 2025

O.S. No.73/2021

Plaintiff/s : Marathi Jambanna S/o late M. Kashappa,
Aged about 56 years,
R/o House No.37, Ward No.13,
Nagaraj Swamy Mutt, Miller Pet,
Ballari.

(By Sri. S.M.N., Advocate)

V/S

Defendant/s : M. Subramanayam @ Subbanna and Others.

(D-1 By Sri. G.M. Advocate)

(D-2 to 4 & 6 Exparte)

(D-5 By Sri. P.B.K.R. Advocate)

I.A.No.III

Applicant : Marathi Jambanna S/o late M. Kashappa,
(Plaintiff)

V/S

Opponent/s : M. Subramanayam @ Subbanna and Others.
(Defendants)

ORDER ON I.A.No.III FILED UNDER ORDER XVI**RULE 6 R/W Sec. 151 OF C.P.C.**

1. The plaintiff has filed this application U/O XVI Rule 6 R/w Sec. 151 of C.P.C. The instant application is filed on 12.06.2024 when the matter was posted for hearing on other interim applications. On the strength of the present application, the plaintiff seeks to call for documents in respect of suit property from the Secretary, Taranagar Gram Panchayath, Sandur taluk.

2. It is submitted that the plaintiff has filed the suit against the defendants for the relief of partition and separate possession. At the time of instituting the suit, the plaintiff has filed the copies of documents, since he does not possess the original records of the suit property. According to applicant, those documents are in the custody of defendants, and one set of the documents are with the Government. The applicant has issued notice to the concerned department and also by filing application under Right to Information Act, but he could not get documents. Those documents are very much essential to the case in hand. The

plaintiff has no other option but to collect the documents. The documents are very much necessary in support of evidence. If the application is allowed no hardship will be cause to the other side. On these grounds, he prays to allow the application and direct the Secretary, Taranagar Gram Panchayath to file the documents in respect of the suit property.

3. The defendants have not filed any objections.

4. Heard the learned counsel for plaintiff, and perused the records.

5. The plaintiff instituted this suit for the relief of partition and separate possession in respect of the suit property bearing house No.76, measuring 32 X 25 feet, situated at ward No.1, Taranagar village, Sandur Taluk. At the time of filing this suit, the plaintiff did not file any property records in respect of the suit property. Before institution of the suit, he made an attempt by filing an application under Right to Information Act, before Village panchayath, Taranagar, Sandur Taluk, seeking the records

in respect of the suit property. However, the Gram Panchayath Taranagar have given an endorsement stating that they have no records in respect of the suit property for the year 2011.

6. According to plaintiff, suit property requires to be partition between him and defendants. In order to prove the nature of the property, it requires the plaintiff to place the records before the court. The authority from whom the plaintiff intend to call for records is not a witness to the present suit. The plaintiff is not seeking title deed of the said authority. The plaintiff is not contending that the documents in respect of the suit property is pledged or mortgaged to the Gram Panchayath, Taranagar. If the Gram Panchayath, Tarangar is directed to produce the documents a sought by the plaintiff it will not incriminate them. Therefore, section 130 of the Indian Evidence Act, is not attracted under the circumstances of the case.

7. Having regard to the nature of the suit, heavy burden is casted upon the plaintiff to prove the nature of the property. As

stated above an attempt made by the plaintiff to secure the documents from the said authority became futile exercise. Therefore, in the interest of justice and equity it is proper to allow the application and seek the records from the Gram Panchayath Taranagar. There are grounds to allow the application. Hence, 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 allowed.

The Secretary, Gram Panchayath, Taranagar, Sandur Taluk is directed to produce the documents pertaining to the suit property bearing house No.76, Ward No.1, Taranagar village, Sandur taluk.

(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 30th day of August-2025).

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