

KACM200002222016



**IN THE COURT OF SENIOR CIVIL JUDGE,**  
**AT: KADUR**

**Present:-** Sri. IRFAN.  
*B.A., LL.B.,*  
Senior Civil Judge & JMFC,  
Kadur, Chikkamagaluru District.

Dated: this the 2<sup>nd</sup> day July - 2025

**FDP No.4/2016**

Petitioners:- Sri. E. Basavaraj,  
Dead by his LR's and another.  
  
(By: Sri. M.N., Advocate)

V/s

Respondents:- Sri. E. Nagaraja,  
Dead by his LR's and others.

(Respondents No.1(a) to 1(c) and Respondent No.5(b)  
by: Sri. S.N.A., Advocate)

(Respondent No.2 by: Sri. V.K.K., Advocate)

(Respondent No.3 by: Sri. P.R.C., Advocate)

(Respondent No.4 by: Sri. M.M., Advocate)



(Respondents No.5(a), (c), (d) and respondent No.7 by:

Smt. M.K.M., Advocate).

(Respondent No. 6 – Exparte)

(Proposed respondent No.8 by: Sri. K.N.B., Advocate).

**RANK OF THE PARTIES ON I.A.NO.11 and 12**

Applicant/

2<sup>nd</sup> respondent

:

Sri. Umamahesh.

V/s

Opponents /

Petitioners

:

E. Basavaraja and another.

i	<i>Provision under which the application is filed</i>	<i>U/S 151 of CPC U/O VIII Rule 1(A) of CPC</i>
ii	<i>Relief sought for</i>	<i>Permit the 2<sup>nd</sup> respondent to file objection.  Production of documents.</i>
iii	<i>The date on which the application is filed</i>	<i>IA No.11 07.02.2025  IA No.12 22.03.2025</i>
iv	<i>Number of the application</i>	<i>11 and 12</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>IA No.11 11.03.2025  IA No.12 06.06.2025.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>02.07.2025.</i>



*When the case is posted for hear on IA No.1 and 4 to 9, the 2<sup>nd</sup> respondent has filed these application.*

**ORDERS ON I.A.11 and 12.**

The 2<sup>nd</sup> respondent has filed these IA's U/S 151 of CPC and U/O VIII Rule 1(A) of CPC seeking leave of the court to file his objections to the main petition as well as to permit him to produce the enlisted documents in order to establish his contentions.

2. These applications are supported by separate affidavits filed by the 2<sup>nd</sup> respondent, wherein it is contended that due to inconvenience, inadvertence and non-availability of relevant documents, the 2<sup>nd</sup> respondent could not file his objections in-time. The enlisted documents are necessary to prove the contentions of the 2<sup>nd</sup> respondent. Accordingly, sought to allow the application.

3. These applications have been resisted by the petitioners vide separate objections, wherein it is specifically asserted that the application seeking leave to file objections to the main petition is filed after lapse of about Nine years. The 2<sup>nd</sup> respondent intentionally adopted the tactics of dragging the proceedings in order



to cause wrongful loss to the petitioners. There are no reasonable grounds made out for granting leave to produce the enlisted documents as they have no relevancy to the matter in dispute. It is further specifically asserted that the 2<sup>nd</sup> respondent had preferred RFA before Hon'ble High Court of Karnataka under RFA No.598/2006 and the same has been dismissed on 03.01.2023 by confirming the judgment and decree passed by this court. Accordingly, sought to dismiss the application.

4. Heard on both sides.

5. The Points arise for my consideration is as follows;

1. Whether the 2<sup>nd</sup> respondent made out grounds for granting leave to file objections to main petition?
2. Whether the 2<sup>nd</sup> respondent made out grounds to permit him to file documents, as prayed?
3. What order?

6. My answer on the above points are as follows:-

Point No.1 - In the Negative;



- Point No.2 - In the Negative;  
Point No.3 - As per final order  
for the following:-

### **REASONS**

7. **Points No.1 & 2:** These points are taken together for common discussion to avoid repetition of facts.

The present final decree proceedings has been initiated based on the judgment and preliminary decree in OS No.157/2001, dated 22.12.2005, wherein 1/9th share each has been allotted to the respective parties with respect to the suit 'A' schedule properties. On reference to the case records, it is noticed that the 2<sup>nd</sup> respondent has already filed his objections to the main petition on 25.04.2016 itself and under such circumstances, the application filed under Section 151 of CPC is devoid of merits and same is liable to be dismissed in limine.

8. The another application is filed U/O VIII Rule 1(A) R/w Sec.151 of CPC seeking leave of this court to produce documents with respect to suit schedule item No.7 property and another property which is not the subject-matter of the present final decree proceedings.



The documents, which are sought to be produced are RTC extract, Mutation order, Official Memorandum, Sale deed, Building licence, Assessment Extract and Form-III. Though it is contended in the annexed affidavit that those documents are relevant, but nothing specifically stated why the 2<sup>nd</sup> respondent requires to produce those documents in this case.

9. At this juncture, it is relevant to refer the judgment and appellate decree in RFA No. 598/2006, dated 03.02.2023 rendered by Hon'ble High Court of Karnataka, which was preferred by the 2<sup>nd</sup> respondent itself challenging the judgment and decree of this court in OS No.157/2001 has been dismissed. But upon reference to the detailed discussions held above, the Hon'ble High Court of Karnataka in paras No.29 and 30 of its judgment was pleaded to hold as follows:-

*“29. However, since it is contended by Sri.E.Uma Mahesha that he had raised huge amounts of loan and had improved item Nos.6 and 7, it would be open for him to plead and prove this fact before the Final decree Court and request that the repayment of the loan be taken into account, while dividing the properties.*



*30. It would be also open for him to seek for allotment of Item Nos.6 and 7 to his share, if he is able to prove that he had in fact raised huge loans and had improved the properties”.*

In view of the aforesaid specific observations, it is open to the 2<sup>nd</sup> respondent to establish that he has raised huge amounts of loan and had improved item No.6 and 7 properties and it is also open for him to request this court that the repayment of loan to be taken into account while dividing the property. It is also specifically observed that it is also open for the 2<sup>nd</sup> respondent to seek for allotment of item No.6 and 7 properties to his share, if he is able to establish that he had in-facts raised huge loans and improved the said properties. If the aforesaid specific findings are taken into consideration, the enlisted documents referred above are not at all relevant for the purpose of observations made by the Hon’ble High Court of Karnataka. Hence, this application is also devoid of merits and same is liable to be dismissed. Accordingly, the **points No.1 and 2 under consideration are answered in the Negative.**



10. Point No.2: In view of the above findings on point No.1, the following;

**ORDER**

I.A.No.11 and 12 filed by the 2<sup>nd</sup> respondent, U/S 151 of CPC and U/O VIII Rule 1(A) of CPC are dismissed with costs of Rs.1,000/-.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 2<sup>nd</sup> day of July, 2025)

Sd/-

(IRFAN)  
Senior Civil Judge,  
Kadur.