

ORDERS ON I.A.I

This interim application has been filed
by the decree-holder under Order XXVI Rule

4 R/w Sec.151 of CPC seeking for appointment of any Advocate of Kadur Advocates Bar Association, Kadur or Sheristedar of this court as Court Commissioner to execute the registered sale deed on behalf of the judgment-debtors with respect to petition schedule property.

2. This application is accompanied by an affidavit filed by the decree-holder. The gist of the application averments is that he has filed this execution petition against the judgment-debtors / defendants for execution of sale deed as per the judgment and decree passed in OS No.209/2022, dated 19.03.2025 before this court and even after passing of judgment and decree, the judgment-debtors have not come forward to execute the registered sale deed in his favour and hence, it is just and necessary to order for appointment of any Advocate of Kadur Advocates Bar Association, Kadur or Sheristedar of this court as Court Commissioner to execute the registered sale

deed in his favour on behalf of the judgment-debtors and therefore, it is sought to allow the present application.

3. The judgment-debtors / defendants remained absent.

4. Heard learned counsel for the decree-holder. Perused the case records.

5. The points that arise for consideration are as follows:

1. Whether decree-holder made out grounds for the appointment of court commissioner to execute the sale deed on behalf of judgment-debtors?

2. What order?

6. The above points are answered as follows:-

Point No.1 – Partly in the Affirmative;

Point No.2 - As per final order,
for the following;

R E A S O N S

7. **Point No.1:-** It is a matter of record that the present execution petition is filed based on the judgment and decree passed in OS No.209/2022, dated 19.03.2025 passed by this court. Now under this application, the decree-holder has sought for appointment of any Advocate of Kadur Advocates Bar Association, Kadur or Sheristedar of this court as court commissioner by contending that the judgment-debtors are deliberately avoiding the execution of the sale deed. In deed, as per judgment and decree, the judgment-debtors are suppose to execute the sale deed, but it is apparent that they have been dragging the same on one or the other pretext.

8. It is a settled principle of law that the executing court cannot go beyond the decree. As per judgment and decree, the judgment-debtors are supposed to execute

the sale deed and it is a matter of record that even after lapse of about 01 year 02 months, they have not come forward to obey the decree. Therefore, it is very much necessary to appoint a court commissioner to execute the sale deed on behalf judgment-debtors. Accordingly, the present application deserves to be allowed.

9. The decree-holder has sought for the appointment of Shiresthedar of this Court as court commissioner, but due to over burden of ministerial work, it may not be feasible to appoint the Shiresthedar as court commissioner, but instead it would be proper to appoint an Advocate as court commissioner in order to execute the sale deed in favour of decree-holder on behalf of judgment-debtors as per the decree. Learned counsel for decree-holder filed a memo by stating that Sri. K.V.M., Advocate of Bar Association, Kadur is ready to execute the commissioner work and same is accepted. **Accordingly, the point under**

consideration is answered partly in the affirmative.

10. **Point No.2**:- In view of findings on the foregoing point, the following:

ORDER

I.A. No.I filed by the decree-holder, under Order XXVI Rule 4 R/w Sec.151 of CPC is partly allowed.

Sri. K.V.M., Advocate, Bar Association, Kadur is appointed as court commissioner to execute the registered sale deed in favour of decree-holder on behalf of the judgment-debtors.

Commissioner fee is fixed at Rs.3,000/-.

Payment of Commissioner fee by: 20.06.2026.

Senior Civil Judge,
Kadur.