

KACM200005022019



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

Before: **Sri. IRFAN,**  
**B.A., L.L.B.,**  
Senior Civil Judge & JMFC.,  
**Kadur,** Chikkamagaluru District.

**Dated this the 14<sup>th</sup> day of Januy - 2026.**

**OS No.101/2019**

Plaintiff: Smt. E. Rudramma.  
(By: Sri. M.O.J., Advocate)

V/s

Defendants: Sri. R. Govindgowda & another.  
(Defendant No.1 by: Sri. K.A., Advocate)  
(Defendant No.2 - Exparte)

**PARTIES TO I.A.No.11**

**APPLICANT:**

Plaintiff Smt. E. Rudramma.

**V/s**

**OPPONENT:**

Defendant Sri. R. Govindgowda & others.



|            |   |  |
|------------|---|--|
| <i>i</i>   | <i>Provision under which the application is filed</i>                   | <i>U/O XXVI Rule 9 R/w Sec.151 of CPC</i>          |
| <i>ii</i>  | <i>Relief sought for</i>  | <i>Appointment of Court Commissioner</i>           |
| <i>iii</i> | <i>The date on which the application is filed</i>                       | <i>06.09.2025.</i>                                 |
| <i>iv</i>  | <i>Number of the application</i>  | <i>11</i>  |
| <i>v</i>   | <i>The date on which the objections are filed by different opponent</i> | <i>10.09.2025 by the 1<sup>st</sup> defendant.</i> |
| <i>vi</i>  | <i>The date on which the orders were passed on the said application</i> | <i>14.01.2026.</i>                                 |

*When the case is posted for arguments, the plaintiff has filed this application.*

### **ORDERS**

This interim application has been filed by the applicant / plaintiff under Order XXVI Rule 9 R/w Sec.151 of CPC seeking for the appointment of Taluk Surveyor, Kadur Taluk as court commissioner to measure the plaint 'A' and 'B' schedule properties and to note the possession of plaintiff and defendants over the said properties and also to note the salient features by preparing a sketch to that effect.



2. This application is accompanied by an affidavit filed by the SPA holder plaintiff. The gist of the application averment is that the instant suit has been filed by the plaintiff seeking for the relief of declaration of plaintiff's title over the plaint 'A' schedule property and for consequential relief of perpetual injunction. The plaintiff owns an extent of 4-00 acres of land in Sy.No.176 of Birur Kavalu Village, Birur Hobli, Kadur Taluk, which is plaint 'A' schedule property and the 1<sup>st</sup> defendant is having her property to an extent of 3-00 acres in Sy.No.175 of Birur Kavalu Village, Birur Hobli, Kadur Taluk, which is described as plaint 'B' schedule property. Such being the case, the revenue authorities while making pakka-phodi durasti on the said properties, they have not done the same as per the possession, have committed an error and shown the possession of plaintiff over the plaint 'B' schedule property and the possession of 1<sup>st</sup> defendant over the plaint 'A' schedule property. The said pakka-phodi proceedings are not in accordance with the possession and ownership of respective parties and the same has been challenged before the Deputy Commissioner, Chikkamagaluru which is pending consideration. Therefore, the



plaintiff in order to prove his possession and also to ascertain the real facts it is sought to appoint the court commissioner as prayed.

3. The said application has been resisted by the 1<sup>st</sup> defendant, wherein, though he admit that the plaintiff is in possession of plaint 'A' schedule property and the 1<sup>st</sup> defendant is in possession of written statement schedule property, but they have specifically denied that any proceedings of pakka-phodi durasti has been taken place with respect to the disputed properties. On these grounds, sought to dismiss the application.

4. Heard both side. Perused the entire records.

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

*1. Whether the appointment of Court commissioner is necessary to adjudicate this suit effectively?*

*2. What order ?*

6. The above points are answered as follows:



Point No.1 - In the Negative;

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

### **R E A S O N S**

7. **Point No.1** :- The present suit is filed by the plaintiff seeking for the relief of declaration of her title over the plaint 'A' schedule property and also for consequential relief of perpetual injunction. It is her case that she is the lawful owner of plaint 'A' schedule property and the 1<sup>st</sup> defendant is the lawful owner of plaint 'B' schedule property and the revenue authorities while effective pakka-phodi durasti have wrongly shown the plaintiff as the lawful owner of plaint 'B' schedule property instead of plaint 'A' schedule property and accordingly, the revenue entries are made. Therefore, the plaintiff has sought for the relief of declaration of her title with respect to the plaint 'A' schedule property. It is a matter of record that this application has been filed by the plaintiff after conclusion of trial. The only point that requires to be considered is whether the appointment of court commissioner is necessary to adjudicate the real controversy on hand. It is necessary to note that



the plaintiff has not placed any materials to demonstrate that the concerned revenue authorities while effecting pakka-phodi have wrongly shown the plaintiff as owner of plaint 'B' schedule property instead of showing owner as plaint 'A' schedule property. Moreso, if the oral evidence of both the witnesses examined on behalf of respectively parties are taken into consideration, there is no much dispute raised by either of them regarding their respective possession over the plaint 'A' and plaint 'B' / written statement schedule properties. In consideration of the fact that the present suit is for declaration of title and consequential relief of injunction, the evidence on record, the appointment of court commissioner would be of no help in determining the controversy on merits. This conclusion is arrived at also on the basis of the prayer made in the plaint. Thus, the present application is devoid of merits and same is liable to be rejected. Accordingly, point under consideration is answered in the **Negative**.

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



**ORDER**

I.A No.11 filed by the  
plaintiff, U/O XXVI Rule 9 R/w  
Sec.151 of CPC is dismissed.

(Dictated to Stenographer directly on computer, corrected by me  
and then pronounced in open court on this 14<sup>th</sup> day of January- 2026)

Sd/-  
**(IRFAN)**  
Senior Civil Judge  
Kadur.