

KACM200005582020



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 24th day of February - 2026

OS No.182/2020

Plaintiff : Smt. Indiramma D.
(By: Sri. N.D / Sri.M.M., Advocates)

V/s

Defendant: Sri. Shivakumara.
(By: Sri.N.S., Advocate)

PARTIES TO I.A.NO.14

APPLICANT:

Plaintiff Smt. Indiramma D.

V/s

OPPONENT:

Respondents Sri. Shivakumara.



<i>i</i>	<i>Provision under which the application is filed</i>	<i>U/O 26 Rule 9 R/w Sec.10-A 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>11.12.2023.</i>
<i>iv</i>	<i>Number of the application</i>	<i>14</i>
<i>v</i>	<i>The date on which the objections are filed by different opponent</i>	<i>07.02.2024.</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>24.02.2026.</i>

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

ORDERS ON IA NO.14.

This interim application has been filed by the applicant / plaintiff, U/O 26 Rule 9 R/w Sec.10-A of CPC seeking for the appointment of court commissioner for local inspection to ascertain the land excavated in the encroached area of land belonging to the plaintiff and also to assess the material value of the stone extracted, in the interest of justice and equity.

2. This application is accompanied by an affidavit filed by the plaintiff. The gist of the



application averments is that the plaintiff has instituted this suit seeking for the relief of declaration and possession and also for the damages. It is the contention of the plaintiff that the defendant had encroached the 'B' schedule property, which is contended to be the part and parcel of 'A' schedule property. It is her contention that the suit 'A' schedule property consists of valuable granite and the defendant is alleged to have extracted the same for unlawful gain. Since, the plaintiff has sought for the relief of damages apart from the other reliefs, it is sought to appoint the court commissioner, as prayed.

3. This application has been resisted by the defendant vide detailed objections, wherein, as per the plaintiff averments, already local investigation conducted by the department of Mines and Geology along with the Surveyors of Revenue Department, Kadur and the plaintiff has also produced several documents in support of her contentions. Therefore, there is no necessity to appoint a court commissioner for local inspection. In spite of aforesaid aspects, the plaintiff has filed this application in order to drag on the proceedings. Accordingly, 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 for local inspection in order to ascertain the land excavated in the encroached portion, as contended in the application?*

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 instant suit is filed by the plaintiff seeking for the relief of declaration of her title over the 'B' schedule property by holding that same is part and parcel of suit 'A' schedule property. She has



also sought for delivery of possession of 'B' schedule property apart from damages of a sum of Rs.20,00,000/-. The present application is filed after conclusion of trial. It is the contention of the plaintiff that she is the lawful owner in possession and enjoyment over the suit 'A' schedule property and it is alleged that the defendant by force encroached a portion of suit 'A' schedule property, which is described as 'B' schedule property. It is her specific case that the said property consists of valuable granite stones and the defendant by encroaching the suit 'B' schedule property had forcefully excavated the granite available therein causing damages to the plaintiff to the tune of a sum of Rs.20,00,000/-. In order to ascertain the aforesaid aspects, the present application has been filed seeking for the appointment of a court commissioner for local inspection in order to assess the value of the granite stone excavated in the alleged encroached portion. This court had given anxious reference to both oral and documentary evidence already placed on record, wherein, it is noticed that the plaintiff herself has produced the survey sketch conducted at the disputed sites and she had also produced oral evidence of Taluk Surveyor as



PW-3 and she has also examined an Officer of Mines and Geological Department as PW-4 to that effect. Without going in detail and in consideration of the facts and circumstances of the suit on hand, it appears that the material already placed on record would be sufficient to arrive at a just conclusion and there is absolutely no necessity for appointment of court commissioner as sought under this application. Thus, the present application is devoid of merits and same is liable to be dismissed. 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

IA No.14 filed by the
plaintiff, U/O 26 Rule 9 R/w
Sec.10-A of CPC is dismissed.

(Dictated to Stenographer directly on computer, corrected by me and then pronounced in open court on this 24th day of February- 2026)

Sd/-
(IRFAN)
Senior Civil Judge
Kadur.