

**ORDERS ON I.A No.II FILED BY THE**  
**DEFENDANT NO.2.**

The learned Counsel for the Defendant No.2 has filed present application praying to issue direction to the Land Acquisition Officer, to release the compensation amount in favour of Defendant.

**2.** It is stated in the affidavit that, the Defendants are the absolute owner and in lawful possession over the suit schedule property and the Government has acquired the same for upper Bhadra project and passed award of compensation of Rs.2,48,274 for the Sy.No.49/1 and Rs.2,86,086/- for the property in Sy.No.47/2.

**3.** The plaintiff has filed objection before Assistant Commissioner/Land Acquisition officer praying to the authority not to release the amount in favour of the defendant by citing pendency of this suit. Hence, the Defendant No.2 has filed present application.

**4.** On the other hand, the learned counsel for the plaintiff has filed statement of objection stating that, the plaintiff has preferred this suit against the Defendant for the relief of

easement right over the plaint schedule property. If the land acquisition officer disburse the amount to the defendants, the plaintiff will be put into great hardship. Hence, prayed to dismiss the I.A No. 2 with cost.

**5.** Heard both side, perused material available on record.

**6.** The following points would arise for consideration of this court

I. Whether the Defendant No.2 made out grounds to issue direction to the Assistant Commissioner as prayed for?

II. What Order?

**7.** My answer to the above Point No. is in the negative for the following;

### **REASON**

**8. Point No.I:-** Through the present application, the Defendant No.2 prayed to issue direction to the Assistant commissioner to disburse the compensation amount favour of the Defendant. Though the present application is filed under section 151 CPC, but the prayer made in the application is in the form of mandatory injunction. Admittedly, the land acquisition officer/Assistant Commissioner is not a party to the suit. Therefore, this court cannot issue

direction to a person who is not a party to the proceedings. Further, the award passed by the Assistant commissioner under the provision of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013. As per section 63 of the said Act, the Jurisdiction of this Court is barred. Which is reads as follows:

***63. Jurisdiction of civil courts barred.—No civil court (other than High Court under article 226 or article 227 of the Constitution or the Supreme Court) shall have jurisdiction to entertain any dispute relating to land acquisition in respect of which the Collector or the Authority is empowered by or under this Act, and no injunction shall be granted by any court in respect of any such matter.***

**9.** Therefore, this court has no jurisdiction to issue direction to the Assistant commissioner to release the compensation amount. Accordingly, I answer **Point No.I in the Negative.**

**10. Point No.II:-** in view of the discussion made hereinabove, I proceed to pass following;

## **ORDER**

I.A No. 2 filed by the Defendant No.2 under section 151 CPC praying issue direction to the land acquisition officer, Tarikere is hereby dismissed.

However, it is clarified that, the pendency of the present suit does affect the proceedings pending before land acquisition officer to pass necessary order with respect to compensation amount.

Sd/-

**(Thahakaleel K.A)**

**III Addl. Civil Judge and JMFC,  
Kadur.**

## **ORDERS ON I.A No. III FILED BY THE PLAINTIFF**

Learned counsel for the plaintiff filed present I.A.No.1 under Order XXVI Rule 9 CPC praying to appoint ADLR, Kadur as court commissioner.

**2.** Learned counsel for the defendants submits to allow the same.

**3.** The present suit is filed by the plaintiff for the relief of Declaration to declare that, plaintiff is having easement right over 'B' and 'C' schedule properties to reach his 'A' schedule property. The defendants contended

that, there are alternative road to reach 'A' schedule property.

**4.** To find out, whether there is alternative road, it is necessary to appoint court commissioner. Hence, following;

**ORDER**

I.A.No.III filed by the plaintiff under Order XXVI Rule 9 of CPC is hereby allowed.

Consequently, ADLR Kadur is appointed as Court Commissioner.

Both the parties are directed to submit memo of instructions.

Commissioner Fee is tentatively fixed for Rs.3,000/-.

For memo of instruction and objections on I.A.No.4. Call on 11.06.2025.

Sd/-

**(Thahakaleel K.A)**

**III Addl. Civil Judge and JMFC,  
Kadur.**