

ORDERS ON IA NO.2 FILED UNDER ORDER I RULE 10
R/W SECTION 151 OF CPC

The applicant has filed the present application seeking its implement in the present case as JDR/Opponent No.8.

2. It is the case of applicant that the decree holder has filed the present petition seeking execution of Decree in a suit for specific performance whereas the applicant is in possession and enjoyment of the decree schedule property. Therefore, the applicant is very much necessary for just, complete and effectual decision of the above case. On these averments, the applicant has sought for allowing the application.

3. On the other hand the learned counsel for decree holder has filed his statement of objections to the present application wherein contended that the present application is not maintainable as the applicant do not know anything about the present case. The applicant has not submitted any documents in support of its claim putting forth as to why it has to be impleaded in this case. The decree holder has filed the present petition seeking execution of decree and the present application is filed only to harass the decree holder. The applicant do not have any interest or liability under the decree. On these grounds, decree holder has sought for rejection of application.

4. Having heard the both side, this Court has perused the entire materials available on record. Now the following points arise for consideration of the present application:

1. Whether the applicant has made out sufficient grounds that it is proper and necessary party to the present petition?

2. What Order?

5. The answers of this Court on the above points are as follows:

Point No.1: In the Negative.

Point No.2: As per the final order for the following:

REASONS

6. **Point No.1:** By way of present application the applicant is seeking its impleadment as JDR/opponent in this petition claiming to be in possession of decree schedule property. The decree subject matter of this execution proceedings is one passed in a suit for specific performance of contract whereby the JDRs were directed to execute sale deed with respect to suit schedule property in favour of decree holder. Admittedly the applicant has got no right or liability under the subject matter decree and it is a settled position of law that the executing Court cannot go behind the decree. Therefore, at the outset itself it could be held that the

applicant is neither proper nor necessary party to the present petition.

7. The specific contention of the applicant is that it is in possession of decree schedule property. No document in this regard is submitted by the applicant to show that it is in possession of decree schedule property. This apart, even if the case of applicant is looked into so as to consider it under either Order 21 rule 97 or rule 99, it is not the case of applicant that it is resisting in delivery of possession of decree schedule property or being dispossessed from the decree schedule property. Therefore, in view of the above reasons, the present application being devoid of merits, deserves to be rejected. Hence, Point No.1 is answered in **Negative**.

8. **Point No.2:** In view of the reasons recorded on the point No.1, this Court is of view to reject the present application and hence the following:

ORDER

IA No. 2 filed by the applicant under Order I rule 10 r/w section 151 of CPC is hereby rejected.

For production of documents with
respect to decree schedule property by:
22.01.2024.

Sd/-

(VISHWANATH.A)
ADDL.CIVIL JUDGE & JMFC.,
MUDIGERE