

ORDER ON I.A. No.15

The present application is filed by the plaintiffs under Order 26 Rule 10 R/w Section 151 of CPC, seeking to summon the Court commissioner for the purpose of cross-examination, at the stage of arguments on commissioner report,

2. In support of the present application, the plaintiffs have filed their memo of facts by stating that the plaintiffs have raised many valid objection to the commissioner report, and the court commissioner has not done the work entrusted to him properly, so elicit the truth it is necessary to examine the court commissioner. Hence sought for allowing the application.

3. On the other hand, the defendant No.3 and 4 submits that they have no objection to the present application.

4. Having heard the learned counsels for respective parties, this Court has carefully perused the entire materials on record.

5. On perusal of the record it appears that the commissioner was appointed to conduct local inspection as per order dated 14.03.2025. After receiving the commissioner report both the

parties has given an opportunity to file objection. After filing of the objection the matter has been posted to hear on commissioner report in the meanwhile, the plaintiffs have come up with this application by contending that the commissioner has not conducted the inspection according to the instructions given by them and they intends to cross-examine the commissioner with regard to the inspection conducted by him. However Order 26 Rule 10(2) stipulates that the commissioner report including any evidence taken during the local inspection or investigation must be included in the Court record and the said report will considered as legal evidence. If the party or Court needs any clarification with regard to the same with permission can examine the commissioner in the open Court and it is also necessary for fare consideration of all evidence presented in the case. In the present case the main contention is the commissioner has not acted according to the instructions given by them and they need clarification regarding the conduct of commissioner. Hence in view of interest of justice this Court proceeds to pass the following;

ORDER

IA.No.15 filed by the plaintiffs is hereby allowed.

Issues summons to Court commissioner for
examination. Call on 18.09.2025

Sd/-

**Addl. Civil Judge & JMFC
Mudigere**