

ORDER ON I.A.NO.4 FILED BY THE DECREE

HOLDER UNDER SECTION 151 OF CPC.

The Decree Holder has filed IA No. 4 under Section 151 of CPC seeking to execute the sale deed produced before this Court being engrossed on document sheets by incorporating change in the Survey No. 94 as 94/1. (carved out of Survey No. 94) in the schedule of the said sale deed of the land proposed to be conveyed and get it duly registered before the Sub-Registrar Mudigere.

2. In the memo of facts annexed with I.A. it is stated that OS No. 102/2010 filed by the Decree Holder against the Judgment debtor in respect of 2 acre 20 guntas (from and out of total extent of 10 acres) of coffee land in Survey No. 94 of G. Hosahalli Village, Gonibeedu Hobli, Mudigere Taluk, bounded by East: estate of Rajashekara in Survey No. 94. West and south: remaining extent of land in Sy.No.94, North: company estate. The said suit has been decreed before the Senior Civil

Judge, Chikkamagaluru in terms of compromise petition filed on 20.01.2011 and the J.Dr has failed to obey the decree and thus he has filed this execution petition. This Court has approved the sale deed to be executed in favour of Decree Holder for and on behalf of Judgment Debtor. When the RTC of the said property of the current year is obtained from the Revenue Authorities, it is mentioned as Survey No. 94/1 and in order to know as to how the said No. 94/1 has been mentioned in the RTC, the Decree Holder has approached the Revenue Authorities and the RTC is given as No. 94/1. For the said reason the land which has to be conveyed to Decree Holder cannot be shown as 94. But the land to which the present number shown as 94/1 has to be mentioned in the sale deed and therefore, there arises need to execute the sale deed produced to this court being engrossed on document sheets. Hence, prays to allow the application.

3. On the other hand, JDRs have filed objection to the IA, contending that the decree holder cannot be permitted to amend the survey numbers in draft sale deed to his whims and fancies because already he had filed two applications for the same claim. The defendants have to mention the very same survey number in the draft sale deed as detailed in the decree and no relief can be granted to other survey numbers. The survey number of G. Hosahalli Village measures more than 10 acres and out of it 2 acre 20 guntas cannot be identified without pakka phodi. Before registration conduct the pakka phodi is necessary in case of Granted land. But in this case so far no pakka phodi is made. No new separate Sy.No. is assigned. So also in case of the sale of a portion of pakka phodi land also the preparation of 11E sketch is necessary. In this case it has to be done. Even otherwise for the first time transfer of any granted land through Registered sale deed, No Objection Certificate from the Tahsildar is necessary. It is

also not obtained in this case. Hence for all these reasons the said deed cannot be executed. Hence there is no necessity to amend the said deed.

4. Perused the written notes of arguments furnished by the learned counsel for the D.Hr. Heard, the learned counsel for the J.Drs, perused the IA and other materials available on record.

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

1. Whether the D.Hr has made out sufficient grounds to allow the IA No.4?

2. What order ?

6. My answers to the above point are as follows:

Point No.1: In the affirmative

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

REASONS

7. **Point No.1:** The present execution petition is filed by the D.Hr to execute the decree as per the compromise decree passed in O.S.102/2010

dated 20.01.2011 by the Addl. Senior Civil Judge and JMFC., Chikkamagaluru.

8. According to the D.Hr, O.S. No.102/2010 filed by the Decree Holder in respect of 2 acres 20 guntas of coffee land out of Survey No.94 of G. Hosahalli Village, Gonibeedu Hobli, Mudigere Taluk, was decreed on 20.01.2011 in terms of a compromise, and upon failure of the Judgment Debtor to comply, the present execution petition was filed and this Court approved execution of the sale deed in favour of the Decree Holder on behalf of the Judgment Debtor. It is further stated that the RTC extract of the current year shows the said land as bearing Survey No.94/1, indicating renumbering by the revenue authorities, and therefore the land proposed to be conveyed requires incorporation of Survey No.94/1 in the sale deed, necessitating its execution on proper document sheets, for which permission is sought.

9. The Decree Holder has produced the RTC extract for the year 2023–2024, which clearly discloses that the land earlier bearing Survey No.94 is now shown as Survey No.94/1. The atlas sketch produced along with the application also reflects the said change in the survey number. This Court cannot shut its eyes to the subsequent revenue records which indicate that Survey No.94 has been sub-divided and assigned a new number as 94/1 by the competent revenue authorities.

10. It is pertinent to note that the identity of the property remains the same. The extent of land, boundaries and location of the property as described in the decree have not undergone any change. Only the survey number has been renumbered in the revenue records. The proposed correction sought by the Decree Holder is only to bring the draft sale deed in conformity with the present revenue records so as to avoid any future complications in registration and enjoyment of the property.

11. The objections raised by the Judgment Debtors with regard to pakka phodi, preparation of 11E sketch, and obtaining No Objection Certificate from the Tahsildar are matters relating to revenue administration and registration procedure. These objections do not affect the power of this Court to permit correction of the survey number in the sale deed in order to give effect to the decree already passed. The Judgment Debtors cannot take shelter under technical objections to frustrate the execution of a decree passed on the basis of a lawful compromise.

12. It is well settled that Section 151 of CPC preserves the inherent powers of the Court to pass such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. In the present case, refusal to permit incorporation of the correct survey number would defeat the very purpose of the decree and render the execution proceedings ineffective.

13. This Court is of the considered opinion that allowing the application would not amount to granting any new relief to the Decree Holder, nor would it alter the decree in any manner. It merely enables proper execution of the decree by reflecting the correct and existing survey number as per the revenue records. accordingly, I answer **point No.1 in the affirmative.**

12. **Point No.2:** In view of the above observation I proceed to pass the following.

ORDER

I.A. No.4 filed by the Decree Holder under Section 151 of CPC is hereby allowed.

The Decree Holder is permitted to incorporate the survey number as Survey No.94/1 (carved out of Survey No.94) in the schedule of the sale deed proposed to be executed in pursuance of the decree.

The sale deed shall be engrossed on proper document sheets and executed and registered before the concerned Sub-Registrar, Mudigere, in accordance with law.

No order as to costs.

Call on by 07.03.2026.

Sd/-

Senior Civil Judge and JMFC.,
Mudigere.