

**ORDER ON I.A FILED U/SEC. 151
OF CPC BY THE RESPONDENT NOS.2
TO 4.**

Sri. D.S., learned Advocate appearing for Respondent Nos.2 to 6, has filed an application under Section 151 of CPC praying to delete and not to consider Instruction Nos.3 and 4 of the Memo of Instructions furnished by the petitioners to the Court Commissioner.

2. It is contended by the learned counsel for the respondents that the instructions given at Sl.Nos.3 and 4 travel beyond the scope of the commission warrant and virtually seek partition and allotment, which according to him cannot be done at this stage.

3. Per contra, learned counsel for the petitioners submits that the suit is one for partition and separate possession and that the instructions are only to facilitate effective execution of the commission warrant and to enable the Court to adjudicate the matter properly. It is further contended that no prejudice is caused to the respondents.

4. On perusal of the Memo of Instructions, it is seen that at Sl.No.3 the petitioners have instructed the Commissioner to measure the survey numbers where the structures detailed in items 'a' to 'f' of the plaint schedule properties bearing Chinniga Village Panchayath Assessment Nos.1/1 to 1/6 are situated and to partition the said structures in a feasible manner so that 1/6th share each may be allotted to the concerned parties. At Sl.No.4, the Commissioner is instructed to partition Item Nos.1 to 29 of the plaint schedule properties into six shares along with structures in a feasible manner so as to enable peaceful enjoyment.

5. In a suit for partition, appointment of a Court Commissioner for local inspection, measurement, identification of properties and feasibility of division is not only permissible but often necessary for proper adjudication of the rights of the parties. The instructions in question do not amount to granting final relief nor do they bind the Court. The Commissioner is only required to submit a report, which is subject to objections, consideration, and final decision by the Court.

6. The apprehension of the respondents that the Commissioner would adjudicate the rights of the parties is misplaced. The Commissioner has no authority to decide shares or grant allotment; he only assists the Court by placing factual aspects on record. Therefore, the instructions at Sl.Nos.3 and 4 cannot be said to be illegal, improper, or beyond the scope of the suit.

7. In my considered view, the Memo of Instructions furnished by the petitioners at Sl.Nos.3 and 4 appears to be proper and necessary for effective execution of the commission work. The objections raised by Respondent Nos.2 to 4 are premature and not maintainable.

8. Accordingly, the application filed under Section 151 of CPC by Respondent Nos.2 to 6 is **dismissed**.

Call on 07.03.2026.