

**ORDERS ON COMMISSIONER REPORT**

The Commissioner who is Assistant Engineer, PWD, Koppa Division has been appointed in this case to for the identification of share of the petitioner in item No.2 schedule property which consist of 10 guntas of land in which the residential house extending 2 guntas is situated. Accordingly the commissioner was appointed and filed his report.

2. The respondent NO.4 filed objections to the commissioner report contending that the report is not maintainable and is not accordance with law and contended that the commissioner has not tallied the copy of decree to perform the commissioner work and contended that the commissioner has simply relied upon the earlier report and has not followed the opinion with the help of surveyor and contended that the commissioner has not properly noticed the age of house and hence prays to reject the commissioner report.

3. On perusal this is the final decree proceedings brought by the petitioner against respondent in view of judgment and decree in O.S.No.40/2009 and on perusal in view of application I.A.No.4 the commissioner came to be appointed and the commissioner after performing ministerial work has filed his report which is Ex.C.25 and the report reveals that the said commissioner has visited the place of incident on 18.01.2024 and in the presence of

the parties to the proceedings he has measured the property prepared sketch and found no changes in the measurement and sketch which was prepared by his predecessor by name Mahammad Dawood Baig.

4. On the request of the respondents the commissioner by name Dinesh Nayak S. who is the A.E., PWD, Koppa Division was summoned and he was examined as CW3 and got marked Ex.C22 to 25. In the cross examination it clearly deposed and admitted as follows;

"ಸದರಿ ಪ್ರದೇಶದಲ್ಲಿ ಡಿಕ್ರಿ ಕಾಪಿ ಪ್ರಕಾರ 10 ಗುಂಟೆ ಆಗಿದ್ದು ಅಸೆಸ್ಮೆಂಟ್ 2 ಗುಂಟೆಗೆ ಮಾತ್ರ ಆಗಿದ್ದು, ಉಳಿದ ಪ್ರದೇಶವು ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಸಂಬಂಧಿಸಿದ ಜಾಗ ಆಗಿರುತ್ತದೆ ಎಂದರೆ ಸಾಕ್ಷಿಯು ಹಳೆ ನಕಾಶೆ ಇದ್ದು ನಾನು ಪರಿಶೀಲಿಸಿರುತ್ತೇನೆ. ಹಳೆ ನಕಾಶೆ ಪ್ರಕಾರ ನಾನು ಪರಿಶೀಲಿಸಿ ನೀಡಿರುತ್ತೇನೆ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ನಕಾಶೆಯನ್ನು ನಾನು ಖುದ್ದಾಗಿ ತಯಾರು ಮಾಡಿರುವುದಿಲ್ಲ. ಸಾಕ್ಷಿ ಮುಂದುವರೆದು ನಾನು ಅಳತೆ ಮಾಡಿ ವರದಿ ಮಾಡಿರುತ್ತೇನೆ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. 4 ನೇ ಎದುರುದಾರರು ನನಗೆ ಸ್ಥಳದ ಬಗ್ಗೆ ಒಂದು ನೋಟಿಫಿಕೇಶನ್ ನೀಡಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ನೋಟಿಫಿಕೇಶನ್ ಪ್ರಕಾರ ಯಾವ ಸರ್ವೆ ನಂಬರ್ ನಲ್ಲಿ ಎಷ್ಟು ಜಾಗ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹೋಗಿರುತ್ತದೆ ಎಂದು ನಾನು ಪರಿಶೀಲನೆ ಮಾಡಿರುವುದಿಲ್ಲ. ನಾನು ನೋಟಿಫಿಕೇಶನ್ ಪ್ರಕಾರ ಅರಣ್ಯ ಇಲಾಖೆ ಅಥವಾ ತಹಶೀಲ್ದಾರ್ ರವರಿಂದ ಯಾವುದೇ ದಾಖಲೆ ಪಡೆದುಕೊಂಡಿರುವುದಿಲ್ಲ. ಸದರಿ ಪ್ರದೇಶದ ಅಸೆಸ್ಮೆಂಟ್ ನಂಬರ್ ನನಗೆ ಗೊತ್ತಿಲ್ಲ, 2 ಗುಂಟೆಗೆ ಸಂಬಂಧಿಸಿ ನಾನು ಅಸೆಸ್ಮೆಂಟ್ ಪಡೆದುಕೊಂಡಿರುವುದಿಲ್ಲ."

Further he deposed as follows;

ಮಂಜೂರು ಆಗಿರುವ ಎರಡು ಗುಂಟೆ ಪ್ರದೇಶವನ್ನು ಗುರುತಿದೇ ಮನೆಯನ್ನು ಗುರುತಿಸಲು ಆಗುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ, ಪಿ ಡಿ ಒ ರವರು ಬಂದಿದ್ದಲ್ಲಿ ನನಗೆ ಮನೆಯ ಸಂಖ್ಯೆ ಮನೆಯ ವಿಸ್ತೀರ್ಣ ಹಾಗೂ ಚಿಕ್ಕುಬಂಧಿ ನೀಡುತ್ತಿದ್ದರು ಎಂದರೆ ಸರಿ.

Hence it clearly reveals that the commissioner has not

visited the place of incident and not measured and prepared sketch and simply relied upon the report already submitted by his predecessor. Hence it is a fit case to reject the report of the commissioner CW3. However on perusal it was admitted by the commissioner CW3 on the suggestion that it would be possible to him to measure and give boundaries to the house property on the assistance of PWD officials. Hence this court opine that the report of the commissioner is not accurate and can not be relied upon. Accordingly, this court proceed to pass the following;

**ORDER**

The report of the commissioner  
Dinesh Nayak S., is hereby rejected.

Call on 29.10.2024.

Sd/-

(Dasari Kranti Kiran)  
Civil Judge and JMFC:  
N.R.Pura.