

IN THE COURT OF PRL. CIVIL JUDGE, & JMFC.,AT

CHAMARAJANAGARA

Dated this 27th day of March 2026

:: PRESENT:

SMT. SMITA NAGALAPUR., B.A.LL.B.,
PRL. CIVIL JUDGE & JMFC.,
CHAMARAJANAGARA

O.S.148/2017

PLAINTIFFS : Mahadevamma

V/s

DEFENDANTS : Doddamma

I.A.No.XVI

APPLICANT : Mahadevamma,
W/o Venkataramana,
Aged about 71 years,
R/at Parmjyothipuram,
Dr.B.R.Ambedkar Extension,
Chamarajanagar.

(By Sri. A.S.V., Advocate)

V/s

OPPONENTS : Doddamma,
W/o Late R. Rangaiah,
Aged about 66 years,
R/at Parmjyothipuram,
Dr.B.R.Ambedkar Extension,
Chamarajanagar.

(By Sri.R.P.S., Advocate)

i.	<i>Provision under which the application is filed</i>	<i>26 Rule 9 R/w Sec.151 of CPC</i>
ii.	<i>Relief sought for</i>	<i>To appointment</i>

		Court Commissioner
iii.	<i>The date on which the applications are filed</i>	20.11.2025
iv.	<i>Number of the application</i>	IA.No.XVI
v.	<i>The date on which the objections are filed by different opponents</i>	27.11.2025
vi.	<i>The date on which the orders were passed on the said application</i>	27.03.2026

ORDER ON IA.No.XVI

The plaintiff has filed this application under Order XXVI rule 9 R/w Sec.151 of CPC to appoint the ADLR, Chamarajanagar as Court Commissioner for local inspection (measure property & fix boundaries) of the suit schedule property and to submit the Report.

2. The plaintiff has filed this application along with affidavit wherein she stated that, she is absolute owner in possession of the suit schedule property as earlier katha was standing in the name of her father-in-law. After his death Katha mutated in the name her husband by name Venkataramana. After his death her name has been mutated in the Khatha. The defendant has filed suit in O.S.No.313/2016 before the Hon'ble Addl. Civil Judge and

JMFC., Chamarajanagar. The plaintiff has disputed boundaries of Sy.No.167 of Hondarabalu village in the said suit. The defendant has relied the boundaries certified by the Village Accountant and the Tahasildar issued endorsement as the said authority has no power to certify the boundaries. The said suit was decreed on the basis of boundary certificate and the plaintiff herein preferred an appeal in R.A.No.71/2024 before the Hon'ble Senior Civil Judge and CJM, Chamarajanagar. The land bearing Sy.No.167 measures 2643.32 acres and some of the portion of lands were granted to needy persons by the government. Till today Durasth not held for the said land and it is difficult to identify the property. Hence appointing the ADLR as commissioner is necessary to measure the property and fix the boundaries to the suit property. The Survey authorities have refused to take application as no durasth held for the said land. Hence prays to allow the application and appoint the ADLR as Court commission for fixing boundaries.

3. The counsel for the defendant filed objection by

denying contents of the affidavit filed by the plaintiff. Further it is contended that Ex.D.1, 7 and 12 produced by the defendant establishes the boundaries of the properties and there is no need to appoint ADLR as commissioner for fixing boundaries. The matter has been posted for arguments after giving sufficient opportunity to the plaintiff to establish her case. Now this application has been filed with an intention to drag the matter. The plaintiff has not produced such documents to prove her case and she filed application for collection of evidence. Hence application is liable to be rejected with cost.

4. Heard both side Arguments. Perused the material on record.

5. The points that have arisen for consideration of this Court are as under: -

- 1. Whether appointment of Commissioner for local inspection is required in this suit for elucidating matter in dispute?**
- 2. Whether the Application filed under order XXVI rule 9 of CPC by**

**the Applicant/plaintiff is deserves
to be allowed ?**

3. To what order?

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

Point No.1 and 2 : **NEGATIVE**

Point No.3 : As per the final order,
for the following: -

REASONS

7. POINT No.1 and 2 .:- The plaintiff has filed suit for bare injunction. The defendant contested the suit by filing written statement and leading evidence. When case was posted for arguments after conclusion of evidence this application has been filed by the plaintiff.

8. In the application the prayer of the plaintiff is 'a commissioner may be appointed to measure and fix boundaries to the suit schedule property' as certificate issued by the village accountant in favour of the defendant is incorrect. Further she contended that the land bearing Sy.No.167 of Hondarabalu village measures 2643.32 acres and no Durasth held till today. The survey officials refused to measure property on the said reason. No such refusal of

officials has been established by the plaintiff by producing documents. Further herself contended that, it is impossible to identify the property as government granted land to several persons. The said things shows that the plaintiff can approach the ADLR by filing application on the basis of primary documents to identify her property as she already given boundaries in the plaint. The plaintiff alleged that the defendant get decree in O.S.No.313/2016 on the basis of boundaries certified by the Village Accountant and as such this court may appoint ADLR for identification of property. The said plea of the plaintiff is not tenable as this suit filed by her for relief of injunction and she has to establish her case independently. Moreover, this Court has to decide this matter on the basis of evidence appeared in this case and not on the evidence of other case. The application and the affidavit itself discloses that there is no requisite to appoint the Court Commissioner for local inspection to elucidate any matter in dispute. Because, the dispute is with regard to possession and

the evidence appeared before Court is sufficient to adjudicate the matter.

9. I relied on the decision of the **Hon'ble High Court in SHADAKSHARAPPA VS KUMARI. VIJAYALAKSHMI AND OTHERS (ILR 2023 KAR 3983)**. The Hon'ble Court issued guidelines at the time of appointing Court Commissioner by the Courts. The Hon'ble Court held as under;

“The power to appoint the Commissioner for local inspection or scientific investigation can be invoked even suo-moto by the Court without there being an application by either of the parties, if the Court deems it appropriate to secure the report of the Commissioner. However, the appropriate reasons must precede the order appointing the Commissioner.

And such orders are to be passed only after hearing the parties before it”

10. As per above guidelines, this court can appoint a commissioner if there is a dispute and it needs appointment of Commissioner to ascertain the things. There is no such ambiguity in the evidence led by the parties. Moreover, the contents of application itself shows that, the plaintiff has filed this application only with an intention to collect the evidence

through Court Commissioner even though she has produced sufficient evidence before the court. Therefore, I am of the opinion that no such appointment of ADLR for local inspection is to be requisite for the purpose of elucidating any matter in dispute. Hence, by considering the facts and circumstances of the case, I am of the opinion that appointing Court Commissioner would not arise in this case and as per the guidelines of the Hon'ble High Court, there is no such reasons found in this case to allow the application. Therefore I answered Point No.1 and 2 in the **NEGATIVE**.

11. Point No.3: In view of above discussion, I proceed to pass the following;

ORDER

I.A.XVI filed by plaintiff under Order
XXVI Rule 9 of CPC is hereby rejected.

For arguments. Call on 08.04.2026.

(Dictated to the Stenographer on computer, computerized by her, revised, corrected by me, and then pronounced in the open court on this the **27th of the March 2026**)

(SMITA NAGALAPUR)
PRL. CIVIL JUDGE & JMFC.,
CHAMARAJANAGARA.