

KADG010036192025



Presented on : 22-11-2025  
Registered on : 22-11-2025  
Decided on : 18-12-2025  
Duration : ---

**IN THE COURT OF  
I ADDL DISTRICT AND SESSIONS JUDGE  
AT DAVANGERE.**

**PRESENT:-SRI.SHRIRAM NARAYAN HEGDE, B.A, LL.M.  
ADDL.DISTRICT & SESSIONS JUDGE, FTSC-I,  
DAVANAGERE.**

**C/C I ADDL. DISTRICT & SESSIONS COURT,  
DAVANAGERE.**

**DATED THIS THE 18<sup>th</sup> DAY OF DECEMBER, 2025**

**R.A.No.64/2025**

**APPELLANT/S :**

1. Suresh S/o late T.Rangaiah, Aged about 50 years,
2. Smt.Sumarani D/o late Rangaiah, Aged about 45 years,
3. Smt.Geetha D/o late Rangaiah, Aged about 40 years,

Appellant No.1 to 3 are R/o Devarahalli village,  
Santebennur Hobli, Channagiri Taluk,  
Davanagere District.

4. T.L.Srinivasa S/o late Laxmappa, Aged about 70 years, R/o Dvarahalli village, Channagiri Taluk, Davanagere District.

**(By Sri. K.G.K.S., Advocate)**

-V/s-

**RESPONDENT :**

1. D.T.Babu S/o Late Thimmappa, Aged about 65 years,
2. Smt.Veena S. W/o late Kumar D.T., Aged about 35 years,
3. D.K.Maruthi S/o late Kumar D.T., Aged about 35 years,

Respondent No.1 to 3 are R/o Teru Street, Devanahalli village, Channagiri Taluk, Davanagere District.

4. Smt.Usha W/o late Nagarajappa, Aged about 65 years,
5. Kushal S/o late Nagarajappa, Aged about 37 years,
6. Nikil S/o late Nagarajappa, Aged about 31 years,

Respondent No.4 to 6 are R/o Devarahalli village, Channagiri Taluk, Davanagere District.

7. Govindappa S/o Shivani Ramappa, Aged about 74 years,
8. Shantharaju S/o Shivani Ramappa, Aged about 67 years,
9. Nagendra S/o Shivani Ramappa, Aged about 65 years,

10. Shivani Ramappa S/o Ramappa,  
Respondent No.7 to 10 R/o Devanahalli village,  
Channagiri Taluk, Davanagere District.
11. Smt.Lakshamma W/o Vasappa, Aged about  
75 years, R/o Thippagondanahalli village,  
Channagiri Taluk, Davanagere District.
12. Smt.Susheelamma W/o Shankarappa, R/o  
B.R.Project, Bhadravathi Taluk, Shivamogga  
District.
13. Smt.Prema W/o Lakshmanappa, Aged about 73  
years, R/o Issor village, Shikaripura Taluk,  
Shivamogga District.
14. Smt.Sharada W/o Amatekoppa, R/o  
Amatekoppa village, Shikaripura Taluk,  
Shivamogga District.
15. Palakshappa S/o Ramachandrappa, Aged about  
84 years,
16. Smt.Ranjitha D/o Palakshappa, Aged about 48  
years,
17. Madhu S/o Palakshappa, Aged about 52 years,  
Respondent No.15 to 17 are R/o Iduvalli mane,  
Amtekoppa village, Shikaripura Taluk,  
Shivamogga District.
18. Smt.Leelamma W/o Lokeshappa, Aged about 62  
years, R/o Surahonne village, Honnali Taluk,  
Shivamogga District.

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

**ORDER ON I.A.NO.1**

1. Learned counsel for the appellants has filed this I.A. U/ O.41 Rule 5 R/W. Sec.151 of CPC seeking to stay the operation, execution and implementation of the order dated 30/08/2025 passed by the trial court in FDP No.15/2020 till disposal of this appeal.

2. Along with this application, the first appellant has filed his affidavit by contending that in FDP No.15/2020 the court commissioner was appointed and he submitted the report. But the report of the court commissioner is hazardous and not revealing true state of fact. The trial court brushed aside the same and venture to allow the petition by directing the office to draw final decree in accordance with the commissioner report. Now the respondents are making hectic efforts to register the same before office of Sub Registrar Channagiri. They moved a petition before DDLR and they are making preparation to get possession of the property allotted to their share. If they succeeded this appellants will put to great hardship. Hence prayed to stay the operation of the order passed by the trial court dated 30/08/2025.

3. Learned counsel for the respondent No.1 to 3 contested this application by filing detailed objection by contending that FDP court has no jurisdiction to go beyond the decree passed

by the trial court which is confirmed by the Hon'ble High Court. The trial court has rightly accepted the commissioner report in the FDP proceedings. There is no error committed by the FDP court. There is no fault can be found in accepting the commissioner report by the trial court. Suit is filed in the year 1990. Even after more than 3 decades this respondents No.1 to 3 are not able to enjoy the fruits of the decree. Only to drag on the proceedings this appeal is filed. It is nothing but abuse of process of the court. Hence prayed to reject the application.

4. Heard arguments and perused the records.

5. Now the point for determination is as follows:

1) Whether the appellants have made out sufficient grounds to stay the operation of the order passed by the trial court dated 30/08/2025 in FDP No.15/2020 as prayed in I.A.No.1?

6. On the basis of the materials available on record, finding to the above point is in the Affirmative for the following:

### **REASONS**

7. **Point No.1:-** I have gone through the entire materials available on record. In this case there is no dispute about the

preliminary decree passed by trial court in O.S.No.23/1990. The dispute is only with respect to the commissioner report. The records reveals that, this appellants had also filed RFA.736/2007 before the Hon'ble High Court. In the order dated 03/12/2018 Hon'ble High Court has observed that, the final decree must be in accordance with the preliminary decree and there cannot be in deviation.

8. Now the contention of the appellants is that report of the court commissioner is not in accordance with the preliminary decree passed by the trial court. It is also the contention of the appellants that the trial court has not consider the objection filed by the appellants to the commissioner report.

9. Record reveals that even though there was objection by the appellants, the court commissioner was not examined before the trial court. Without examining the commissioner the trial court has accepted the report. Under such circumstances it is just and proper to stay the order of the trial court dated 30/08/2025 to avoid multiplicity of the proceedings. No doubt the original suit is of the year 1990. That alone cannot be a ground to reject the application of the appellants. Filing of appeal is a statutory right given to the appellants. If subsequent actions are taken on the basis of the order of the trial court dated 30/08/2025, the purpose of

filing this appeal will be defeated. Reasonable condition will meet the situation. Hence aforesaid point is answered in the affirmative and proceed to pass the following :

**ORDER**

I.A.No.1 filed by the appellants U/O.41 Rule 5 R/W.Sec.151 of CPC is hereby allowed.

The operation, execution and implementation of the order dated 30/08/2025 passed by the trial court is hereby stayed till disposal of this appeal on following condition.

Appellant No.1 to 4 shall file undertaking affidavit by stating that, they will comply the decree of the trial court if they ultimately failed in this appeal and they will make good the loss sustained by the respondents in view of filing of this appeal.

Issue intimation to trial court accordingly.

(Dictated to the Stenographer, after transcription computerized by her, corrected, signed and then pronounced by me in the open court on the 18<sup>th</sup> December 2025)

(Shriram Narayan Hegde)  
C/c I ADDL.DISTRICT & SESSIONS JUDGE,  
DAVANAGERE.