

ORDER ON IA NO:2.

On 20.09.2024, after appearance of Respondent NO:1 to 3, the petitioner maintained this application U/Sec.151 of CPC praying to put up entire file of FDP NO:10/2014, which was disposed on 22.08.2022 with this petition for proper adjudication of the issues involved.

1. In the memo of facts annexed to the application, the counsel for the petitioner stated that, the plaintiff instituted OS NO:104/2003 before Senior Civil Judge, Davanagere. The said suit was transferred to this court and re-numbered as OS NO:30/2011, which came to be partly decreed. Aggrieved by the said judgment & decree, the respondents NO:1 to 3 preferred RA.NO:85/2011 and the respondent NO:4 preferred RA.NO:96/2011 before Honble II ADJ, Davangere. On 30.08.2014, both appeals being dismissed by modifying the judgment & decree passed in OS NO:30/2011. Further, the respondents preferred RSA.NO:339/2015 & RSA.NO: 1772/2014 before Hon'ble High Court of Karnataka. However both appeals being dismissed vide common judgment. On the basis of modified decree passed in RA NO:84/2011 & RA.NO:96/2011, the plaintiff

filed FDP NO:10/2014, wherein, a court commissioner was appointed, who submitted his report as well. The said court commissioners report is just and necessary to adjudicate this proceedings and prays to secure entire file of FDP NO:10/2014 in this case by allowing the application.

2. The respondent though appeared but neither filed objections to main petition nor to this application. In the result, the reasons assigned by the petitioner for securing entire records of FDP NO:10/2014 are remained intact.

3. On perusal of the records, this court noticed that, FDP NO:10/2014 being disposed of by this court. In view of pendency of RSA NO:339/2015 and RSA NO:1772/2014. However, RSA NO:1772/2014 filed by defendant NO:2, 4 & 5 allowed in part and RSA NO:339/2015 preferred by defendant NO:6 being dismissed. Now, present petition being filed for demarcation of the shares by appointing the court commissioners. The petitioners claim that, in FDP NO:10/2014, already the court commissioner was appointed and his report was secured. The consideration of said court commissioners report is necessary by securing entire file of FDP NO:10/2014 is necessary.

4. With these observations, this court is of the considered view that, the petitioner made out sufficient grounds for securing the entire records of FDP NO:10/2014 on the file of this court in this case. Accordingly, I proceed to pass the following,

ORDER

The IA NO:2 so filed by the petitioner U/Sec.151 of CPC is hereby allowed.

The office is directed to keep entire records of FDP NO:10/2014 of this court with this case forthwith.

Call on for report of keeping entire records of FDP NO:10/2014 by the office by 24.06.2025.

Sd/-

Sr. C. J. and JMFC, Cng.,