

ORDERS ON MEMO

The counsel for petitioner filed a memo seeking an order for carrying out commission work in the absence of

petitioner. As per their contention the petitioner is a widow lady, one of the respondents threatened her on 08.04.2025, when she had come to attend the Court. She had filed police complaint. So in order to avoid the complication, it is requested to exempt her presence for the commissioner work.

2. On the otherhand, the counsel for respondent No.1 to 5 filed objections taken contention that, the plaintiff had filed the memo stating that one of the defendants threatened her on 08.04.2025 without mentioning particulars of the said defendant and has filed complaint before police etc., are all false. It is further contended that, it is just and necessary for the plaintiff to keep herself present at the time of commencement of court commissioner's work. Without the presence of the plaintiff the commission work cannot be carried out. It is the procedure to carry out the commission work in the presence of the concerned parties or otherwise any of the parties may raise objections and pray for rejection

of the said commission work and thus drag on the matter without there being any reasonable grounds. The memo is filed only with a view to harass the defendant No.1 to 5. Hence, prayed to reject the memo.

3. On perusal of the memo and objection filed by the otherside it is noticed to the Court that no hardship cause to the respondents if the memo is allowed because when the petitioner herself seeking exemption her presence at the time of executing the commissioner work. Moreover, the law is permit the above said contentions, hence I would like to refer Order 26, Rule 18 of the Code of Civil Procedure (CPC) mandates that when a court issues a commission (such as for local investigation or examining witnesses), it must direct all parties to appear before the Commissioner. If any party fails to appear, the Commissioner may proceed in their absence. Hence, the memo filed by the petitioner deserves to be allowed. Hence, I proceed to pass the following:

ORDER

Memo filed by the counsel for the petitioner is hereby allowed.

Consequently, issue commissioner warrant to the Court commissioner as per order dated:03.03.2026 to conduct the commissioner work in the absence of petitioner if P.F. paid.

sd/-

*(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge and JMFC.,
Hubballi.*