

**IN THE COURT OF THE II ADDITIONAL SENIOR CIVIL
JUDGE AND J.M.F.C. HUBBALLI**

Present:- Smt. Deepa G Manerkar,
B.Com. LL.B, (Spl.)
II Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.

Dated this the 04th day of February 2026

O.S. No.391/2022

Smt. Sharadha A. Morey and another

...Plaintiff/s

-Versus -

Smt. Rekha S. Morey and others

.....Defendants

IA.No.IX

Smt. Rekha S. Morey and others

APPLICANT/ DTF. No.1 AND 2.

Versus -

Smt. Sharadha A. Morey and another

OPPONENT/ PLTFFS.

ORDER ON I.A.No.IX FILED UNDER SEC.151 OF CPC

I.A.No.IX is filed under Sec.151 of CPC by the counsel for the defendant No.1 and 2 to direct the defendant No.4 and 5 to deposit the rent amount.

2. In the affidavit accompanying the I.A. it is sworn by the defendant No.1 that, the plaintiffs have filed the suit for partition and separate possession of suit schedule property. The suit schedule item No.1 property is an immovable property, which is an RCC Building consisting of 2 single Bed-Room Houses in the ground floor and 1 double Bed-Room house in the first floor. That in one single Bed Room house in the ground floor, he and plaintiff No.1 have occupied and residing together therein. At the time of filing of suit by the plaintiffs and also at the time of filing of writing statement by us, one single bed room house in the ground floor and a double bed room house in the first floor was vacant. He is looking-after the entire family expenses. Such being the facts the plaintiffs have let out the a single bed-

room house in the ground floor to defendant No.5 and a double bed-room house in the first floor to the defendant No.4, without my notice or consent and even not disclosed the terms and conditions of the rent agreements. He had filed I.A.No.6 and thereby prayed to implead the defendants No.4 and 5 to the suit as proper parties. Wherein, the plaintiffs have filed objections to I.A.No.6 stating that the defendants No.4 & 5 are only tenants and as such they are not necessary or proper parties to the suit. After hearing both the parties, this Hon'ble court has pleased to allow the I.A.No.6 by order dated: 28-11-2023 and thereby the defendants No.4 and 5 have been impleaded to the suit. However, the defendants No.4 and 5 are paying the rent to the plaintiffs. Whereas, the plaintiffs are neither Kartha/Manager of the family or exclusive owners of the suit property. The plaintiffs are not having any sorts of exclusive rights over the suit schedule item No.1 property to receive rents from the defendants No.4 & 5. They are also having undivided interest in the suit

schedule item No.1 property and as such they are also entitled for the rents received from the defendants No.4 and 5. However, they cannot claim accounts for the same from the plaintiffs as plaintiffs are neither Kartha nor Manager of the family Apart from that the plaintiffs are not in exclusive possession of the suit schedule item No.1 property, even they are also in joint possession of the same. That the plaintiffs are not having any exclusive rights to receive the rents from the defendants No.4 & 5. Rather, in the said rent amount, they are also having the claim equal to their share. Therefore, the defendants No.4 & 5 have to deposit the rent amount in the Hon'ble court in this case and the same has to be divided by this Hon'ble court as per the parties extent of share in the suit schedule item No.1 property. If the present application is not allowed they will be put to irreparable loss and injustice, as they would be deprived off their share in the rents fetched from the suit schedule item No.1 property. Hence, prayed to allow the IA.

3. The counsel for the plaintiff has not filed objections to the present IA.

4. Heard arguments of plaintiff counsel.

5. The points that arise for my consideration is:-

1. Whether the present application deserves to be allowed?

2. What Order ?

6. My findings on the above points are as follows :

Point No.1 : In the Negative.

Point No.2 : As per final order for the following :-

REASONS

7. **Point No.1**:- The present I.A. is pressed into service by counsel defendant No.1 and 2 to direct defendant No.4 and 5 to deposit rent amount. However, in the application filed there is no mention of amount of rent on which the plaintiffs have let out single bedroom house in the ground floor in favour of defendant No.5 and double bedroom house in first floor in favour of defendant No.4. No doubt in

the objections filed to I.A.No.6 the plaintiffs have admitted defendant No.4 and 5 are tenants and the said defendant No.4 and 5 have been impleaded in the present suit as necessary parties. However it is defendant No.1 and 2 who have sought specific prayer to direct the defendant No.4 and 5 to deposit rent amount. They have not placed any documents such as rent agreement or rent receipts to show what is the amount being collected by the defendant No.4 and 5. In fact memo was filed on 07.04.2025 by the defendant No.5 stating that he has vacated the rented house. This goes to show that till 07.04.2025 defendant No.5 was occupying the part of suit property. However, that itself is no ground to direct the defendant No.4 and 5 to deposit rent in the absence of any particulars being furnished before the court. No doubt the plaintiffs and defendants may be having share in the rent in respect of suit property, however, they can claim the said rent only after submitting the details of amount and the period from which the defendant No.4 and 5 are on rent and

what is the amount of rent being fixed in respect of property occupied by defendant No.4 and 5. Therefore in the absence of said details, the defendant No. 4 and 5 cannot be directed to deposit rent amount. As such at present the defendant No.1 and 2 have not made out grounds to allow the present application as such, the same is hereby rejected. Accordingly, above point No.1 is answered in the Negative.

8. **Point No.2** : In view of the findings and answer to point No.1, this court proceeds to pass the following :-

ORDER

I.A.No.IX filed by counsel for defendant
No.1 and 2 U/Sec.151 of CPC is hereby
rejected.

(Dictated on AI Adalath, corrected by stenographer, verified by me, and then pronounced in the open court on this the 04th day of February 2026.)

Sd/-
(Smt. Deepa G Manerkar)
II Addl. Senior Civil Judge and JMFC
Hubballi.