

IN THE COURT OF THE I ADDITIONAL SENIOR
CIVIL JUDGE & J.M.F.C., HUBBALLI

Present:

SMT. SARVAMANGALA K.M.,
B.A. LL.B.,
I Additional Senior Civil Judge and JMFC.,
Hubballi.

O.S. No.477/2023

Dated this the 02nd day of July, 2026

Plaintiff/s : Dr. Manjunath S/o
Veerabhadrapa Kuragund @
Totager.

.Vs.

Defendant/s : Smt. Shivabai W/o
Veerabhadrapa Kuragund @
Totager and others.

PARTIES TO I.A. No.IX

Applicant/s : Smt. Shivabai W/o
Veerabhadrapa Kuragund @
Totager and others.

Opponent/s : Dr. Manjunath S/o
Veerabhadrapa Kuragund @
Totager.

- i. Provision under which : Under Sec.151 of CPC
application is filed
- ii. Relief sought for : Seeks a direction to
defendant No. 5 to
produce the Fixed

*Deposit (FD)
particulars and deposit
the amount covered
under Schedule 'C' of
the plaint into the
Court before
commencement of
evidence.*

- iii. The date on which : 10.02.2026
application is filed*
- iv. Number of the : IX
application*
- v. The date on which : 24.02.2026
objections are filed by
different opponents*
- vi. The date on which : 02.07.2026
orders were passed on
the said application*

ORDERS ON I.A. No.IX

The counsel for defendant No.2 to 4 have filed an application under Sec.151 of C.P.C., seeking an order to direct the defendant No.5 to produce the documents of FD particulars and to deposit the amount as per schedule 'C' of the plaint to enable to parties to the suit who have got the legitimate share and entitle to their respective share according to law to meet the ends of justice and equity.

2.The plaintiff has filed objection to the said application.

3. I have heard the arguments canvassed by both counsel.

4. The following point is arises for disposal off the application.

“Whether direction as prayed for can be issued ?”

5. My finding to the above point in the Negative for forgoing;

REASONS

6. This is the suit filed by the plaintiff for partition and separate possession and declaration is concerned. When the matter is set down for additional written statement, the counsel for defendant No.2 to 4 filed present application seeking an order to issue directions to the defendant No.5 to produce the documents of FD particulars and to deposit the amount as per schedule 'C' of the plaint to enable to parties to the suit who have got the legitimate share and entitle to their respective share according to law.

7. In the annexed affidavit the defendant No.2 has averred that since during the pendency of this suit his mother defendant No.1 Smt. Shivabi W/o Veerbhadrappa Kurgund died leaving behind his youngest brother i.e., plaintiff, himself and defendant No.3 and 4 are his own full blood sisters. The suit schedule "C" property mentioned in the suit annexure have been admitted as to without prejudice to the rights of defendant No.3 and 4 and

himself the suit schedule "C" property are required to be partition by metes and bounds. Now the stage of this suit is to file additional written statement on behalf of himself and defendant No.3 and 4. It is further submitted that before commencement of the defendants evidence it is necessary to bring the records of the schedule "C" property as mentioned in the plaint by the plaintiff along with amount and interest, the said amount and interest is to be calculate by the defendant No.5 and to deposit in the name of this Court which is just and proper and necessary for adjudication of dispute in question. Hence, prayed to allow the application.

8. The objection of the plaintiff is that, the application is false, frivolous, vexatious and same is neither tenable in law nor on the facts of the case. Hence, the application is liable to be rejected. It is further contended that it is already under FD scheme. Therefore, till disposal of the above suit the amount cannot be called for. When the amount is already in under FD question of call for documents and amount is totally unnecessary. Therefore, the application is totally merit less and is liable to rejected.

9. The suit is one for declaration and partition. The defendant seeks a direction to defendant No. 5 to produce the Fixed Deposit (FD) particulars and deposit the amount covered under Schedule 'C' of

the plaint into the Court before commencement of evidence.

The applicant has not disclosed any provision of law under which defendant No. 5 can be compelled, at this stage, to deposit the FD amount before adjudication of the rights of the parties.

Mere inclusion of the FD amount in Schedule 'C' of the plaint does not entitle any party to seek its deposit into Court before determination of the parties' respective shares.

It is not disputed that the amount is already lying in a Fixed Deposit. There is no material to show that the amount is likely to be withdrawn, dissipated, or misappropriated so as to necessitate its deposit into Court.

The question whether the FD amount forms part of the joint family estate and the respective shares of the parties are matters to be decided only after recording evidence and adjudication of the suit.

If the Court ultimately holds that the amount is available for partition, appropriate directions regarding its disbursement or division can be issued in the final decree or at the appropriate stage. Therefore, directing its deposit now serves no useful purpose. Upon considering the pleadings and the rival contentions, this Court is of the opinion that the amount covered under Schedule 'C' is admittedly lying in a Fixed Deposit. The applicant

*has failed to establish any imminent apprehension that the amount is likely to be withdrawn or wasted. The entitlement of the parties to the said amount is yet to be adjudicated in the suit. At this stage, issuance of a direction to defendant No. 5 to produce the records and deposit the FD amount before this Court is premature and unwarranted. The relief sought can be considered, if necessary, after determination of the rights of the parties. Hence, the application is devoid of merits and is liable to be dismissed and I answer the **point in the negative**. Hence, I proceed to pass the following:*

ORDER

I.A. No.IX filed by the defendant No.2 to 4 under Sec.151 of C.P.C. is hereby dismissed reserving liberty to the parties to seek appropriate relief, if required, after adjudication of their rights in accordance with law.

*(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **02nd day of July, 2026**)*

sd/-

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