

**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL  
JUDGE, HUBBALLI**

Present:

**Sri. Yamanappa Karehanumanthappa,**  
Prl. Senior Civil Judge, Hubballi.

**EX. No.228/2023**

**Dated this the 9<sup>th</sup> day of February - 2026**

**Decree holders** : Smt. Jakkavva Kampli and others.

**.Vs.**

**Judgment debtors** : Mallappa Amarshetty and others.

**PARTIES TO IA No.VII**

**Applicants** : Sri. P.K. Patil and another.

**.Vs.**

**Opponent** : Smt. Jakkavva Kampli and others.

**ORDER ON IA No.VII**

This I.A. is filed by the applicants for appointment of expert i.e. Government approved valuer for value of the building as court commissioner to assess the value of the building constructed in CTS No.504/B of Ward No.I, situated at Keshwapur, Hubballi i.e. tenanted land.

2. The counsel for applicants has filed memo of facts stating that the applicants have filed application claiming embracement of building value constructed in tenanted land bearing CTS No.504/B of Ward No.I, situated at Keshwapur, Hubballi as per order passed by Hon'ble

Supreme Court of India in SLP No.1183/2025 on I.A. No.6. While passing the order on I.A. No.6 the Hon'ble court was pleased to observed that it is beery directed to submit valuation certificate from the expert by appoint court commissioner. Hence, it is necessary to appoint court commissioner to assess the value of the building by expert Civil Engineer. The Government approved engineers are the experts and proper persons to assess and determine the value of the building constructed in tenanted land. Hence, prayed to allow the I.A.

3. The decree holders have filed objection to this I.A. contending that the contents of the application are not tenable either in law or on facts. They have contended that the applicants have filed I.A. No.6 before this court for directing the decree holders and judgment debtors No.1, 5 and 6 to pay ₹96,13,000/- to the applicants being the value of the building. There is no any agreement between the applicants and the decree holders or their predecessors in title to pay the value of the building at the time of vacating the property in question. The application is highly premature. Absolutely there is no necessity to seek for the appointment of the court commissioner for valuation of the building. The present application is filed by the applicants as if the present decree holders and judgment debtors No.1, 5 and 6 are liable to pay the value of the building to the

applicants. Hence, the application is misconceived and same is not tenable. Hence, prayed to reject the application.

4. I have heard both side on this I.A. Perused the pleadings of the parties, I.A. and affidavit. The following points arise for my consideration:

1. Whether the applicants have made out a ground that the appoint of court commissioner is necessary to find out the value of the building in CTS No.504/B of Ward No.I, Keshwapur, Hubballi?

2. What order?

5. My answer to the above points are as under.

**Point No.1 : In the Affirmative.**

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

### **REASONS**

6. **Point No.1:** The Hon'ble Supreme Court of India in SLP No.1183/2025 held that it would however be open to respondents No.1 and 2 to seek intervention in the execution proceedings, if they wish to raise any claims, including a claim for reimbursement for the value of the constructions made by them in the tenanted land. For which the applicants have filed this application U/o.26 Rule 10 of C.P.C. for appointment of court commissioner to assess the value of the building construction in CTS No.504/B of Ward No.I, situated at Keshwapur, Hubballi in tenanted land.

7. The decree holder has filed objection on various grounds stating that as per lease deed dated 07.11.1894 Sidlingappa Bulla is a purchaser of the lease hold rights. The applicants have entered into sub-lease agreement with Sidlingappa Bulla in respect of premises in question. When there is no clause in the original deed to pay value of the building to lessor any condition in sub-lease agreement between the lessee and lessor, to pay the value of the building is not at all binding on the original lessor and this court has to decide who are liable to pay the value of the building. On these grounds they have raised objection. Whether Sidlingappa Bulla is liable to pay the value of the building or who are liable to pay the value of the building, this court is yet to be decided. No doubt this court has decided who is liable to pay the building valuation. In order to fixing the liability value certificate of building in tenanted land is required from the expert, because there is a direction of Hon'ble Supreme Court indirectly to decide the reimbursements of the value of the said property. Therefore, in order to find out the valuation of the building the appointment of court commissioner is required. Hence, I answer point No.1 in **Affirmative**.

8. **Point No.2**: In view of my answer to point No.1 as stated above, I proceed to pass the following;

### **ORDER**

The I.A. No.VII filed by the applicants  
U/o.26 Rule 10 of C.P.C. is hereby allowed.

The Executive Engineer, Public Works Department, Hubballi is appointed as court commissioner.

The commissioner fee is fixed at ₹5,000/-.

Issue notice to commissioner to present before the court at about 11-00 a.m. on 10.02.2026 and both parties are hereby directed to file memo of instructions by tomorrow.

(Dictated to the Stenographer directly on computer, computerized by her, script corrected directly on computer and then pronounced by me in the Open Court on this the **9<sup>th</sup> day of February - 2026**)

**(Yamanappa Karehanumanthappa)**  
**Pri. Senior Civil Judge, Hubballi.**