



IN THE COURT OF CIVIL JUDGE & JMFC., KUNDGOL

PRESENT

**Smt. Gayatri. B.Com.,LL.M.(IPR)
Civil Judge & JMFC, Kundagol**

FDP. No.5/2025

DATED 22ND DAY OF JANUARY 2026

PETITIONER : SMT. YALLAVVA W/O. MARUTI PUJAR AND
OTHERS.

-V/s-

RESPONDENTS : SMT. SUBHADRAVVA W/O. YALLAPPA BETAGERI
AND OTHERS.

IA. No.1

APPLICANTS : SMT. YALLAVVA PUJAR
PETITIONERS AND OTHERS.

-V/s-

OPPONENTS : SMT.SUBHADRAVVA BETAGERI
RESPONDENTS AND OTHERS.

ORDER ON IA NO.1

IA. No.1 is filed by the Applicant/Petitioner No.1 U/O.26 R-9 R/W Sec.151 CPC praying for appointment of Tahashildar/ADLR Kundagol and AEE, PWD, Kundagol as Court

Commissioners for De-marking the Petition schedule properties as per the judgment and preliminary decree passed by this Court in O.S. No.33/2014 dated: 04.01.2025 and prayed for allowing the application.

2. Per contra, learned counsel for Respondent No.1 has filed objections and prayed for rejections of application.

3. Hard and perused.

4. The following points arise for this court's consideration.

1) Whether Applicant/ Petitioner No.1 has made out sufficient grounds for allowing the present application?

2) What order?

5. This court findings on the above points for consideration 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 present Petition has been filed by the Petitioner for drawing Final Decree as per the Preliminary Decree passed by this Court in O.S. No.33/2014 dated: 04.01.2025. The suit of the

Plaintiffs in respect of which this Court passed a Preliminary Decree holding Plaintiffs together entitle for $\frac{1}{2}$ share of their deceased mother Smt. Kamalavva. The Counter Claim filed by Defendant No.2 was also Decreed. It is was held that Defendant No.1 and 2 are together entitled for $\frac{1}{2}$ share in schedule ॐ item No.1 and 2 schedule ॰, ॱ and ॲ properties. The Defendant No.3 and 4 the childrens of Defendant No.1 are also entitled for their resepective shares in the $\frac{1}{4}$ th share of Defendant No.1. The present application has been filed by applicant praying for appointment of Tahashildar / ADLR Kundagol and AEE, PWD Kundagol as Court Commissioners to visit spot and to look in to the aspect of availability of the properties towards their respective shares.

7. Per contra, learned counsel for Respondent No.1 has filed their detailed objections contending that, the application filed by applicant is false, frivolous, vexatious, fabricated besides being malicious one. He has also contended that challenging the preliminary Decree, has has preferred appeal in RA No.4/2025 and said appeal is pending disposal. He also contended that if the present application is allowed great hardship and inconvenience will be caused to him. The application is untenable and bad in the eyes of law, as such prayed for dismissal of same. Hence has prayed for rejection of application.

8. The Applicant has submitted that though RA is pending disposal but no stay has been granted and prayed for allowing the application so that the Commissioner work will be done. L/C for Respondent No.1 has submitted that RA is pending disposal and at the stage application cannot be allowed. On careful perusal of rival contention it is clear that though RA is pending adjudication but no stay is granted. If the present application is allowed no hardship or inconvenience will be caused to other side. Hence being of said opinion this Court without further discussion proceeds to answer this point accordingly.

12. POINT NO.2: In view of the above discussion and reasons mentioned therein this court proceeds to pass the following:

ORDER

IA. No.1 filed by the Applicant/ Petitioner U/
O.26 R-9 R/w. Sec.151 of C.P.C is hereby
allowed.

No order as to cost.

The ADLR, and AEE, PWD Kundagol is
hereby appointed as Court Commissioners to
demarcate the respective Petition schedule
properties as per the preliminary decree passed
by this Court in O.S. No.33/2014.

The Court Commissioner fee of Rs.2,000/- is hereby tentatively fixed.

Both the parties are hereby directed to appear on spot by 10.00 AM on 12.02.2026 along with their respective memo of instructions without waiting for notice to be issued by the ADLR and AEE, PWD Kundagol Court Commissioners.

Office to issue commissioners warrants to both the Court Commissioners after payment of PF, deposit of Court Commissioners fee and other charges.

(GAYATRI)
Civil Judge & JMFC.,
Kundgol.