

ORDERS ON IA NO.6 UNDER ORDER 26 RULE 9 OF CPC

This is the application filed by the plaintiff praying for issue commission by appointing the ADLR as Court commissioner to measure the suit property as prayed.

2. In the affidavit annexed to the application the plaintiff has stated that she has filed against defendants. The defendants obstructed to measure the property. As such it is necessary to appoint court commissioner in the interest of justice.

3. On receipt of application learned counsel for the defendants submitted to no objection to allow the application.

4. Heard, both side. Perused material on record.

5. The plaintiff filed the suit for permanent injunction restraining the defendants with peaceful possession and enjoyment of the suit schedule property. In the plaint she has taken contention that she has purchased the suit property dated 11.6.2014 through registered sale deed. From the date of said sale she is in possession and enjoyment over the suit property. In the written statement the defendants vehemently disputed the possession of the plaintiff and also interference by them. After completion of both side of evidence the plaintiff filed this application by saying that it is necessary to appoint court commissioner for measuring the suit property. In the plaint the plaintiff nowhere stated regarding there is a dispute of boundary and also measurement. On the other hand the defendants are also not stated regarding the boundary dispute. In the present suit the plaintiff has prove her possession as on date of suit in the suit property. She cannot collect evidence by appointing court commissioner when there is no dispute regarding boundary. Accordingly the plaintiff has not made out sufficient ground to allow the application. Thus, I proceed to pass the following.

// ORDER //

***IA No.6 filed by the plaintiff is
hereby dismissed.***

For arguments.

Call on:

(Smt.Deepa)
Addl. Civil Judge & J.M.F.C,
Arasikere.

