



**IN THE COURT OF THE CIVIL JUDGE AND JUDICIAL  
MAGISTRATE FIRST CLASS, SAVANUR.**

PRESENT : **SRI. SRINIVASA.S.N.,**  
Civil Judge and JMFC.,  
Savanur.

**O.S.No.129/2010**

**Dated, this day of 7<sup>th</sup> day of January, 2026**

**Plaintiffs** : Smt. Neelavva W/o Mahadevappa Lamani &  
others

**V/s**

**Defendants** : Smt. Hiravva W/o Mallappa Lamani & others

**PARTIES IN IA-XX**

**Applicants** : Smt. Neelavva W/o Mahadevappa Lamani and  
[Plaintiff No.3] others

Vs

**OPPONENT** : Smt. Hiravva W/o Mallappa Lamani & others  
[Defendants]

<b>i</b>	Provision under which the application is filed :	Under Order 13 Rule 10 and Order 16 Rule 6 & 7 r/w Sec.151 of CPC
<b>ii</b>	Relief sought for :	Seeking to summon and call for the entire original records in RTS/APSR/No.115/1992-93 on the file of the Assistant



		Commissioner, Sub-Division, Savanur,
<b>iii</b>	The date on which the application is filed :	07-11-2025
<b>iv</b>	The date on which the objection is filed by opponents:	19-11-2025
<b>v</b>	The date on which the order is passed on the said applications	07-01-2026

### **ORDERS ON I.A.NO.XX**

The plaintiff has filed I.A.No.XX under Order 13 Rule 10 and Order 16 Rule 6 & 7 r/w Sec.151 of CPC seeking to summon and call for the entire original records in RTS/APSR/No.115/1992-93 on the file of the Assistant Commissioner, Sub-Division, Savanur, disposed of on 08-02-1994, including the appeal memo, final order, entire order sheet, list of documents and original certified copies of Mutation Entries No.998 and 1260 of Bevinahalli village, for inspection and marking in evidence, in the interest of justice and equity.

**2.a)** In the accompanying affidavit, plaintiff No.3 has stated that the present suit is one for partition and separate possession of the suit schedule properties. It is further stated that this Court has framed additional issues, and for proper adjudication of the same, certain documents forming part of the revenue proceedings are



required to be examined. According to the plaintiff, the records pertaining to RTS/APSR/No.115/1992-93 are material and relevant for determining the manner in which late Mallappa Somaleppa Lamani acquired rights over the suit properties and for establishing that the suit schedule properties are ancestral in nature.

b) It is specifically contended that the original mutation records maintained in the office of the Tahsildar are not available, as the same were destroyed in a fire accident, and endorsements issued to that effect have already been produced and marked as Ex.P.3 and Ex.P.8 in the present suit. Under these circumstances, it is asserted that the certified copies of the mutation entries preserved in the records of the RTS appeal proceedings constitute the only available documentary evidence relating to Mutation Entries No.998 and 1260 of Bevinahalli village.

c) In view of the above, the plaintiff has filed the present application seeking to call for and summon the entire original records in RTS/APSR/No.115/1992-93 on the file of the Hon'ble Assistant Commissioner, Sub-Division, Savanur, including the appeal memo, final order dated 08-02-1994, the complete order sheet, the list of documents, and the original certified copies of



Mutation Entries No.998 and 1260 of Bevinahalli village. It is contended that the said documents are essential for inspection by this Court in order to effectively decide the additional issues framed and to disprove the defence set up by the defendants.

d) It is further contended that, in the absence of the said records, the plaintiff would be seriously prejudiced, as there would be no other documentary evidence available to substantiate the plea regarding the nature of the suit properties and the lineage of succession. Therefore, it is urged that summoning of the said RTS records is necessary for a just, fair, and effective adjudication of the issues involved in the suit, in the interest of justice and equity.

**3.** Per contra, the the advocate for defendants has filed objection to present I.A.No.XX. He contended that the present application is not tenable and the contents of affidavit are not true and correct. The application is beyond the scope and ambit of order XIII Rule 10 of CPC and Order XVI Rule 6 and 7 of CPC. Hence, applications may kindly be rejected. It is further contended that applicant sought for production of appeal memo, final order, entire order sheet, list of documents and original ME No 998 and 1260 of Bevinahalli village. If the applicant really required the said



documents she may file the application before AC and take back the documents. Applicant without filing any application, filing this application for calling of records is not tenable. Hence, application may kindly be rejected. It is respectfully submitted that already certified copy of appeal memo in RTS/APSR/No.115/1992-93 was produced by the very plaintiff and got marked said document as Ex.P.1. The Plaintiff has produced final order of the said RTS Appeal memo dated 08-02-1994 and got marked as Ex.P.2. Hence, said documents are not necessary. If the plaintiff required ME No 998 and ME No 1260 of Bevinahalli Village which are produced by her, before AC and said appeal already disposed off and she may file application for return of said documents. The Applicant without filing such application, filed this application for calling of said documents from the AC is wholly erroneous. It is further contended that said documents are necessary documents to decide the case but plaintiff only to prolong the matter, filed this false application. Therefore, it is most respectfully prayed that Hon'ble Court may please to dismiss the I.A.No XX with cost in the interest of justice and equity.

**4.** Heard the arguments of both the counsels and perused pleadings, materials available on court records.



5. The following points arise for my determination.

**POINTS**

1. Whether the IA No.XX filed by the plaintiff have made out sufficient grounds to allow?
2. What order?

6. My answers to the above points are as here under:

Point No.1 : In the Negative.

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

**: REASONS :**

7. **Point No.1:-** The suit is for partition and separate possession in respect of suit schedule properties. The plaintiff has filed I.A. No.20 under Order XIII Rule 10 and Order XVI Rules 6 & 7 read with Section 151 of CPC seeking to summon and call for the entire original records in RTS/APSR/No.115/1992-93 on the file of the Assistant Commissioner, Sub-Division, Savanur, disposed of on 08-02-1994, including the appeal memo, final order, entire order sheet, list of documents and original certified copies of Mutation Entries No.998 and 1260 of Bevinahalli village, for inspection and marking in evidence.



8. In the present suit, this court has framed one of the additional is as follows;

**ADDL. ISSUE NO.1:-** *“Whether the plaintiffs prove that Fakkirappa Jatreppa Lamani is ancestor of plaintiffs and defendants?”*

9. Sri.NSP Advocate for plaintiffs argued that the suit is for partition and separate possession. The burden is on plaintiffs to prove the additional issues. The main contention of defendants is that Fakirappa is not the original propositors. To prove the genealogy of the plaintiff and to disprove the contents of the defendants, these documents are necessary. The plaintiff counsel contended that they applied for the documents before the Tahsildar but Tahsildar gave the endorsement stating that those documents are burnt. Technical ground cannot be taken as ground to reject the application Ex.P.3 and P.8 are the endorsement for non-availability of documents. Hence this application is filed. Hence these documents are necessary to prove the additional issue. Hence prays to allow the application.

10. Sri.SRH Advocate for defendants argued that the appellate court has observed that RTC documents are not necessary and contended that tahsildar already gave the endorsements. The



appeal memo and final order passed by AC Savanur is already marked. The plaintiffs have not complied Order 16 Rule 6 of CPC. Order 13 Rule 10 is not applicable to other departments, it applies only to Courts to Courts. The plaintiffs have not sought for these documents, since 15 years. The plaintiffs may seek for return of documents from AC. He further argued that no cause is shown under Order 13 Rule 10(2) of CPC. After filing of the suit, the plaintiff have not made any request or application, before the Assistant Commissioner, Savanur. The plaintiff have not followed the procedure to obtain the documents. The plaintiffs have not made any attempt to obtain the certified copies which are in question by filing copy application and they have not produced any endorsement issued by Assistant Commissioner, Savanur. Hence prays to reject the application.

**11.** On perusal of records, it is to be noted that Order XIII Rule 10 CPC empowers a Court to call for records only from another Court. The records sought to be summoned in the present application are from the office of the Assistant Commissioner, who is a revenue authority and not a civil court subordinate to this Court. Therefore, invocation of Order XIII Rule 10 CPC for calling



such records is legally misconceived and the application is not maintainable under the said provision.

**12.** Further the Order XVI Rules 6 & 7 CPC, before seeking issuance of summons for production of documents, the applicant must establish that despite due diligence, such documents could not be obtained directly from the custodian. In the present case, except producing endorsements issued by the Tahsildar regarding non-availability of original mutation records, the plaintiff has not produced any material to show that an application was made before the Assistant Commissioner, Savanur, seeking certified copies or return of documents and that such request was refused. In the absence of any endorsement or communication from the Assistant Commissioner, it cannot be said that the plaintiff has exhausted the statutory remedy available to her.

**13.** It is an admitted fact that the certified copy of the appeal memo and the final order dated 08-02-1994 passed in RTS/APSR/No.115/1992-93 are already produced and marked as Ex.P.1 and P.2. The endorsements regarding destruction of mutation records are also marked as Ex.P.3 and P.8. When the relevant documents are already on record and available as



secondary evidence, summoning the entire original RTS file at this stage is neither necessary nor justified.

**14.** The RTS proceedings concluded in the year 1994 and the present suit was instituted in the year 2010. The plaintiff has not offered any satisfactory explanation for not taking steps earlier to obtain the documents in accordance with law. The application is filed at the stage of evidence after a long lapse of time and does not disclose any sufficient cause as required under Order XIII Rule 10(2) CPC or for invoking the inherent powers of the Court under Section 151 CPC.

**15.** The appellate court in R.A.No.5/2021 has only observed in para no.22 that parties may adduce evidence on rectified additional issues. The said observation does not amount to a direction to summon RTS records. In the facts and circumstances of the case, this Court is of the considered opinion that the plaintiff has failed to make out any legal or valid ground to summon the documents as prayed for. Allowing the application would only result in unnecessary delay in disposal of the suit. In view of the aforesaid reasoning and discussions, it is clear that the application filed by the plaintiff deserves to be rejected. Accordingly, this court answered **point No.1 in the Negative.**



**16. POINT NO.2 :-** In view of above said discussion and reasonings, I proceed to pass the following;

**: ORDER :**

**I.A.No.XX filed under Order 13  
Rule 10 and Order 16 Rule 6 & 7 r/w  
Sec.151 of CPC by the plaintiff is  
hereby rejected.**

(Dictated to the Stenographer directly on computer, corrected and initialed by me and then pronounced in the open court on this day of 07<sup>th</sup> day of January, 2026.)

**(SRINIVASA. S.N)  
Civil Judge and JMFC,  
Savanur.**