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**IN THE COURT OF THE CIVIL JUDGE & JMFC., JEWARGI**

**Present**

**Sri. Kashinath V. Uppar**

**B.Sc. LL.B.**

Civil Judge & JMFC., Jewargi.

**Dated on this the 14<sup>th</sup> day of July -2025**

**E.P. No. 04/2013**

**Decree holder:** 1. Jainabi W/o Ladlesab and others.

**(By. Sri. P.K., Advocate)**

**V/s.**

**Judgement debtor:** Basavaraj S/o Hanamantraya Patil,

**(By Sri.B.H.K., Advocate)**

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**PARTIES TO I.A. NO.I**

**APPLICANT/S** : Begumbee W/o Ladlesab  
**III Party applicant** and others.  
 V/S

**OPPONENT** : Modinsha & other

1	Provision under which the application is filed	U/O.151 of CPC and I.A.No.16 Rule 17 of CPC.
2	Relief sought for	Reopen case for lead III party applicant's evidence and issue summoning of Manger of Dist. Wakf Board Kalaburagi.
3	The date on which the application is filed	18-08-2022
4	Number of application	I.A.No.10 and 11
5	The date which the objection are filed by different opponents	26-08-2022

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6	The date on which the orders were passed on the said application	14-07-2025
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**COMMON ORDER ON I.A No.10 U/O 151 OF CPC AND  
I.A.NO.11 U/O 16 RULE 7 OF C.P.C.**

The third party applicants have filed I.A.No.10 U/O 151 of CPC, for a relief of reopen stage for to objectors to lead their evidence to metes the ends of justice.

The Third party applicant have filed I.A.No.11 U/O 16 Rule 7 of CPC, to issue summons to Manager of District Wakf Board Kalaburagi, to produce the marriage register pertaining Begumbee who is the 3<sup>rd</sup> party applicant and deceased Ladlesab of her marriage evidence.

2. The first objector/applicant sworn to the affidavit stating that, she is the legally wedded wife of deceased Ladlesab and other objectors are her natural daughters and sons born out of her wedlock. The DHRs filed their written statements in original suit, denying the legal status of present objectors and her children with deceased Ladlesab and applicant and she has produced the copy of Nikhanama along with translated copy of marriage certificate issued by the Manager of District Wakf Board Kalaburagi. The present applicant intending to lead the evidence of Manager of District Wakf Board Kalaburagi, to prove her marriage. The evidence of Manager of District Wakf Board Kalaburagi, is very much

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necessary to her claim in this petition. Hence, applicant prays to reopen the case of objector/petitioner to lead further evidence.

3. The decree holder resisted the application by filing objections contending that, the objector filed the I.A.No.4 U/O 21 Rule 97 to 103 is not applicable to decide the civil rights of the parties. This petition filed by the decree holder only recovery of possession by the judgment debtor. The 3<sup>rd</sup> party has no locus-standi to contest the present execution petition and the 3<sup>rd</sup> party applicant right was decided in O.S.No.52/2013 dated 04-01-2022. The present decree holder was denied the relationship with deceased Ladlesab and 3<sup>rd</sup> party applicant. The said suit was dismissed on the merit. The execution petition has only limited scope. There is no any claim of the 3<sup>rd</sup> party they are in possession of the property either by the judgment debtor or decree holder resisting the possession of the property. When the case is for recovery against the judgment debtor to deliver the possession. No rights of 3<sup>rd</sup> party are established U/O 97 to 103 of CPC. Every civil right is to be determined in the civil court and not in the execution court.

4. The decree holder further stated that, the relation of objectors is denied in O.S.No.52/2013 and in said case it is to be established. In the objections of the same this court has

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not right to determine the relationship once decided to the contrary. The judgement and decree passed in O.S.No.52/2013 operates as a res-judicata to the 3<sup>rd</sup> party petitioner. Hence, the application filed by the objectors prays to dismiss.

5. Heard the both sides.
6. On considering the I.A, affidavits and objections, points would arise for my consideration are as under:

#### **POINTS**

1. Whether the I.A.No.10 & 11 filed by the objectors is deserves to be allowed ?
2. What order?
7. My answers to the above points are as under:  
Point No.1:- Negative.  
Point No.2:- As per final order, for the following:

#### **REASONS**

8. **Point No.1:-** The decree holder filed a O.S.No.6/2007 for eviction and compensation against the judgement debtor and same is decreed on 21-02-2009. Thereafter, decree holder filed the execution petition. Further, this court was issued the delivery warrant. The judgement debtor was appearing before this court and submits that, he is ready to handover the possession of suit property. Thereafter, the 3<sup>rd</sup> party

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applicant filed the I.A.No.4 and 5 U/O 21 Rule 97, 99, 101 R/w.Sec.147 of CPC, 1908, stating that they have fixed share in the petition schedule property by restraining the respondents from dispossession the objectors. The objector/applicant by filing this application sought to issue summons to the Manager of District Wakf Board Kalaburagi to produce the marriage register pertaining to objector No.1 and deceased Ladlesab to adduce evidence.

9. That, DHR counsel filed objections to IA No.10 and 11 that, rights of objections already decided in OS No.52/2013. This execution petition has only limited scope to recover the possession of petition property. There is no any claim of 3<sup>rd</sup> party they are in possession of petition property either by JDR or DHR resisting the recovery of possession in the present petition. The grievance of objector is that, the decree holder denied the relation of the 1<sup>st</sup> objector, hence it is necessary to the register maintained by the District Wakf Board Kalaburagi, has to be summoned to produced the marriage register and to adduce evidence. On perusal of records it shows that, the 3<sup>rd</sup> party applicant right was decided in O.S.No.52/2013. Therefore, the evidence of Manager of District Wakf Board, Kalaburagi, evidence is not necessary. The 3<sup>rd</sup> party applicant established his lawful possession over the petition schedule property not her marriage legal status.

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But, even if officials of District Wakf Board Kalaburagi, is summoned to produce the register no purpose will survive because the 3<sup>rd</sup> party already decided in O.S.No.53/2023. Moreover, the objector already lead three witnesses and this petition is of 12 years. Hence, the application filed by the 3<sup>rd</sup> party applicant is deserves to be dismissed with cost. Accordingly I answered **Point No.1 in the Negative.**

10. **Point No.2:-** In view of the my findings on Point No.1, Hence, I proceed to pass the following:

### **ORDER**

The interim application No.10 filed by the 3<sup>rd</sup> party application U/Sec.151 of CPCj, and interim application No.11 U/O 16 Rule 7 of CPC, is hereby rejected.

For hearing on I.A.No.4 & 5 by6 16-07-2025.

(Dictated to the Stenographer, typed by him revised and corrected by me and then pronounced by me in the Open Court on this 14<sup>th</sup> Day of July-2025).

(Kashinath V. Uppar)  
Civil Judge & JMFC, Jewargi.

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