

**IN THE COURT OF THE CIVIL JUDGE AND JMFC., JEWARGI  
AT JEWARGI.**

**Present:- Sri.D.Ramesh, BA.L., LL.B.,  
Civil Judge and JMFC, Jewargi.**

**Dated : This the 03<sup>rd</sup> day of January, 2022**

**F.D.P.No.8/2013**

Between:

Nagamma : **Petitioner**

**(By Sri.J.V.H., Adv.,)**

And

Chandawwa and Others : **Respondents**

**(Respondent No.2 to 4  
By Sri.B.B., Adv.,)  
(Respondent No.1 dead)**

**I.A.No.12**

Sharanagouda : **Applicant/ Respondent No.4**

V/s.

Nagamma : **Opponent/Petitioner**

**ORDERS ON IA No.12**

The respondent No.4 has filed application U/Sec. 151 of CPC and prayed to stay the further proceedings of from No.11(C) pending disposal of the petition.

**2.** The brief averments of the affidavit are as follows:-

That the commissioner has already filed commissioner report demarcating the shares of parties suppressing the material facts. Objection was filed and the commissioner was examined before the Hon'ble court. Now the matter is posted for hearing on commissioner report. During the pendency of the proceedings stated supra, the petitioner has earlier filed another application for making survey via application No.04130421841488 Dated: 30.04.2021 and notice was issued on 26.11.2021 showing that survey would be conducted on 20.11.2021 with respect to land Sy.No.9 measuring 14 acres 33 guntas and mode of transfer has been shown as court decree. This Hon'ble court has not passed any order demarcate and make survey on 20.11.2021 or any other date. The surveyor visited the said land and again surveyed the land on 30.11.2021 and asked the respondent No.4 to sign. But when he questioned the same, he stated that as per the court order, he came to the said land and surveyed. The respondent No.4 came to know that there is no court order to survey the land on the said application. Petitioner has been paying foul play with the court as well as the respondents. Hence the proceedings of the said survey with respect of said land Sy.No.9 is required to be stayed pending disposal of the case.

**3.** On the other hand the petitioner has filed objection the application contended that the preparation of form No.11(C) is on the basis of the preliminary decree passed by this hon'ble court and as per the survey rules. The petitioner has not suppressed any facts and not played any foul play with the hon'ble court and with

the respondents hence allegations of respondents are not correct hence the petition filed by the respondents for staying the further proceedings of form No.11(C) may be rejected.

4. Heard the arguments. Perused the records.

5. The Points that arise for my consideration are as follows:-

**Point No.1:- Whether the applicant/respondent No.4 proves that the application filed by him deserves to be allowed?**

**Point No.2 :- What order?**

6. I answer the above points as follows:-

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

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

### **REASONS**

7. **Point No.1 :-** The respondent No.4 has filed the present application and prayed to stay the further proceedings of 11(C) sketch contending that the commissioner has already filed commissioner report demarcating the shares of parties before this court. The respondents have filed objections the said report and commissioner was examined. Now the matter was posted for hearing on commissioner report. During the pendency of the proceedings the petitioner has filed another application for making survey. Accordingly the surveyor has visited the spot and conducted the survey on 30.11.2021. Hence the proceedings has to be stayed.

**8.** On the other hand the petitioner objecting the application contending that the preparation of form No.11 (c) is on the basis of preliminary decree passed by this hon'ble court.

**9.** A perusal of order sheet it could be seen that this court has appointed a court commissioner for demarcating the shares. Accordingly commissioner has filed his report. Thereafter the respondents have filed objection to the commissioner report. Accordingly commissioner has been examined and posted for hearing on commissioner report. At that stage the present application is filed by the respondent No.4 on the above said reasons. Admittedly the matter is posted for hearing on commissioner report. As per the respondent No.4 the petitioner has filed application for 11 (c) sketch. Before passing final order in this petition it is not proper to prepare the 11 (c) sketch. Hence further proceedings of 11(c) sketch is to be stayed. Accordingly application is liable to be allowed. Hence, I answer the Point No.1 in the Affirmative.

**10. Point No.2 :-** In view of the above discussion, I proceed to the pass the following :-

**ORDER**

**I.A.No.12 U/Sec 151 of CPC filed  
by the respondent No.4 is hereby  
allowed.**

**Consequently further proceedings  
of application No.04130421841488  
Dated: 30.04.2021 is stayed till final  
orders of this petition.**

**In the facts and circumstance of  
the case no order as to costs.**

(Dictated to the stenographer, transcribed by him. The transcript revised by me, and then pronounced in the open court on this the 03<sup>rd</sup> day of January, 2022.)

**(D.RAMESH)**  
**Civil Judge & JMFC.,**  
**Jewargi.**