

**IN THE COURT OF THE CIVIL JUDGE & JMFC., JEWARGI.*****Present*****Sri. Kashinath V. Uppar****B.Sc. LL.B.****Civil Judge & JMFC., Jewargi.****O.S. No.75/2013****Dated on this the 5<sup>th</sup> day of January-2026****ORIGINAL SUIT No.75/2013****PLAINTIFF: 1. Shirsamma W/o Mahadev**

Age: 55 years, Occ: Agriculture & Household,  
R/o Dudhani, tq: Akkalkot, dist: Solapur  
& another.

**(By. Sri. J.V.Hatti., Advocate)**V/s.**DEFENDANTS: 1. Saraswati W/o Basanna Badiger**

Age: 65years, Occ: Agriculture & household,  
R/o Madri, Tq: Jewargi, Dist: Kalaburagi.  
& others.

**(By Sri. B.G., Advocate)**

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**PARTIES TO I.A. No.12****APPLICANT/  
**Defendant****

: 1. Saraswati W/o Basanna Badiger

V/S

**OPPONENT/  
**Plaintiff****

: Shirsamma W/o Mahadev

i.	Provision under which the application is filed	I.A.No.12 filed by defendant U/o 14 Rule 5 of CPC
ii.	Relief sought for	IA No.12 for recasting of

KAKB620003292013



		additional issues.
iii.	The date on which the application is filed	I.A.No.12 dated 11-12-2025.
iv.	Number of the application	IA No.12
v.	The date of which the objections are filed by different opponents	I.A.No.12 Dated 12-12-2025
vi.	The date on which the orders were passed on the said application	05-01-2026

**ORDER ON I.A No.XI FILED BY DEFENDANT COUNSEL FILED  
NO.12 U/O 14 RULE 5 OF C.P.C.**

The defendant No.2 has filed this application under Order 14 Rule 5 of C.P.C., to recasting the additional issue which is as under:

1) Whether plaintiffs prove that, 2<sup>nd</sup> defendant S/o  
Veerabhadrappa ?

**2. The defendant No.2 in memo of fact of I.A.No.12 stating that :**

The plaintiffs have filed a suit for partition and separate possession against the defendants. As per claim of plaintiffs that, 2<sup>nd</sup> defendant is son of Veerabhadrappa and defence set up by the 2<sup>nd</sup> defendant is the son of Gurappa. The initial burden is on the plaintiffs to prove that, 2<sup>nd</sup> defendant is son of Veerabhadrappa if they prove certainly onus shift on the 2<sup>nd</sup> defendant to disprove the same. Defendant No.2

KAKB620003292013



please to this court that, the additional issue No.1 by shifting direct burden on 2<sup>nd</sup> defendant to prove the same instead of shifting the burden of the plaintiff. Therefore, it is necessary to replace the additional issue No.1 as per proposed amendment in order to metes the ends of justice.

3. learned counsel for plaintiff filed detail objections that, the additional issue No.1 cannot be replaced.

4. Heard the arguments and perused the records.

5. The following points arise for my consideration.

**Point No. 1:-** Whether I.A. No.XII filed defendant No.2 U/o 14 Rule 5 R/Sec. 151 of C.P.C is deserves to be allowed ?

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

6. I answer the above points as follows:-

**Point No.1 :- Affirmative**

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

### **REASONS**

7. **Point No.1:-** The plaintiffs have filed the suit for partition and separate possession against the defendants. When this court was framed the additional issue, then the defendant No.2 filed this application. It is the contention of plaintiff that, defendant No.2 is the son of Veerabhadrappa. The defendant No.2 has set up the

KAKB620003292013



defence that, he is the son of Gurappa. On considering the pleadings, plaint averments and written statement defendant No.2 this court is opinion that, the plaintiff should prove his own case and plaintiff is the master of his case. The initial burden lies on the plaintiff to prove their case. In the present case, plaintiff claim a partition and separate possession against the defendant it is the contention of plaintiff that, defendant No.2 is the son of Veerabhadrayya and he himself stating that, he is the son of Gurappa and got mutated his name in the ROR of suit schedule property. The initial burden lies on the plaintiff is that, to proves the defendant No.2 is the son of Veerabhadrayya. Then the onus of proof lies on the defendant No.2 proves that, he is the son of Gurappa. Hence, it is necessary to recasting the additional issue No.1. Hence, the application filed by the defendant No.2 deserves to be allowed. Therefore, I answer point No.1 in the affirmative. Hence, I proceed to pass the following;

### **ORDER**

I.A.XII filed by the defendant No.2 U/o XIV Rule 5 of C.P.C. is hereby allowed.

Additional issue No.1 is recasting as under.

Whether the plaintiff proves that, the defendant No.2 is the son of Veerabhadrayya not a son of Guruappa?.

(Dictated to the Stenographer directly on computer, same is typed by

KAKB620003292013



him, corrected by me, signed by me and then pronounced by me in the open court on this the 05<sup>th</sup> day of January, 2026)

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

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