

KAMD010045292025



**IN THE COURT OF IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MANDYA**

Dated: This the 27th day of June 2026

Present :

SRI MADHVESH DABER

B.Com., LL.B.(Spl)

IV Addl. District & Sessions Judge
Mandya.

RA No.52/2025

Appellant: V.L. Lingadevaru

V/s.

Respondent: Y.H. Ramachandra

I.A.No.I

Applicant: V.L. Lingadevaru Appellant

[R/by HB, Advocate]

V/s.

Opponent : Y.H. Ramachandra Respondent

[Opponent in person]

**ORDER ON APPLICATION UNDER ORDER 26
RULE 9, 10 AND 10 (A) READ WITH SECTION 151
CPC**

The learned counsel for the appellant has filed this application under Order 26 Rule 9, 10 and 10(A) read with Section 151 CPC to appoint Assistant Director of Land Records, Taluk office, Mandya as court commissioner for the purpose of measuring the suit property as per memo of instructions that will be filed by the parties and to submit technical report to the court as the same is quite essential for deciding the dispute in question.

2. The application is supported by the affidavit of appellant who has deposed in detail regarding the necessity for appointment of court commissioner. The respondent in person filed objections and submitted to allow the application on various grounds.

3. Heard the arguments.

4. Now the points that arise for my consideration are as under:

1. Whether the appellant has made out grounds for allowing the application and to appoint Assistant Director of Land Records, Taluk office, Mandya as court commissioner for measuring the suit property and to submit the technical report to the court?

2. What order?

5. My findings to the above points for consideration are as under:

1. In the ***Affirmative***.
2. As per final order, for the following:

REASONS

6. **Point No.1:** During the argument, the learned counsel for the appellant has drawn my attention to the contents of the affidavit in support of the application and submitted that learned trial court has dismissed the suit filed by him. He has challenged the correctness and legality of the same. The learned trial court has pointed out that identity of the suit property is not made out.

However, the respondent/ defendant has taken the definite stand not claiming the suit property, but contending that, there is no so much of property claimed by the appellant. The appellant produced several relevant documents before trial court. But the learned trial court has not appreciated those documents in a proper manner and dismissed the suit.

7. The learned counsel for the appellant further argued that, learned trial court has held the suit property is not definitely identifiable as described in the plaint schedule. Since the respondent has nothing to do with the suit property as the appellant has nothing to do with the property claimed by the respondent, it is very much essential and necessary to find out location of the suit property with reference to the documents produced by the appellant. Though prior to the filing of the suit, the suit property was measured by revenue authorities, still there is dispute about the said measurement and objections. There is no sufficient and cogent expert evidence by way of commission. Therefore, appointment

of a survey known official is very essential and required for proper appreciation of both documentary and oral evidence. Hence, the learned counsel for the appellant submitted that, if court commissioner is appointed and the property is measured and demarcated by technical surveyor, the real controversy between the appellant and respondent would be settled. The report of the court commissioner / surveyor is very much essential to appreciate the evidence led by the parties and to do justice to them. Therefore, it is quite essential to allow the application and to appoint the court commissioner for measurement of the suit property and report. Hence, learned counsel for the appellant prayed to allow the application.

8. The respondent in person submitted that, already several meetings were held in the presence of panchayathdars from June 2018 in between the appellant and respondent with respect to the suit property. In this regard, 2-3 times, private surveys were conducted. The suit property has been measured twice by applying

modern technology. Though initially the appellant has agreed to the decision of the panchayathdars, but subsequently he resiled from the same. Further the ADLR, Mandya on 13.07.2020 gave endorsement to the appellant that suit property cannot be measured. Further the appellant has not filed any application for measurement of the suit property during the course of trial before trial court.

9. The respondent in person further submitted that, still in order to avoid waste of time, financial loss he has no objection to allow the application and to appoint court commissioner which would decide the real lis between the parties effectively and do justice between the parties. Hence, he prayed to allow the application and to appoint the court commissioner.

10. Having heard the learned counsel for the appellant and respondent in person and considering the submission made by both the parties, more particularly the submission made by respondent in person, I am of the view that, in order to avoid the financial loss and

waste of time, it is very necessary to appoint the court commissioner for measurement of the suit property and report to the court.

11. In the light of the above circumstances, if the court commissioner is appointed, the real controversy between the parties would be settled. A Scientific Technical Surveyor would carryout measurement by using modern technology which will help the court to appreciate the evidence on record and to do justice between the parties. Further the Scientific opinion would help in location of the suit property and it will do complete justice to the parties and help the court in deciding the case on merits. Moreover as discussed above, the respondent in person has submitted no objection to allow the application and to appoint ADLR, Taluk office, Mandya as court commissioner. That apart during the argument, both learned counsel for appellant and respondent in person have filed memo of instructions. Furthermore the respondent in person has submitted documents along with memo of instructions,

which would help the commissioner to measure the property smoothly without any difficulty and submit report to the court. With these observations, I am of the view that, it is a fit case to allow the application and to direct the ADLR, Taluk office, Mandya to measure the suit property with modern scientific techniques and submit his report to the court. With these observations, I answer Point No.1 in **Affirmative.**

12. **Point No.2:** In view of aforesaid reasons on Point No.1, I proceed to pass the following:

ORDER

IA No.1 under Order 26 Rule 9, 10 and 10(A) read with section 151 CPC **is hereby allowed.**

The Assistant Director of Land Records, Taluk office, Mandya is appointed as court commissioner for the purpose of measuring the suit property as per memo of instructions filed by both appellant and respondent in person and to measure the property in the presence of both the parties by using

scientific methods and submit the report to the court.

(Dictated to the Stenographer directly on the computer, typed by her, script corrected and then order pronounced by me in the open Court on this the 27th day of June 2026)

(Madhvesh Daber)
IV Additional Sessions Judge,
Mandya.

Case called out. Order pronounced in the Open Court. Vide separate order.

ORDER

IA No.1 under Order 26 Rule 9, 10 and 10(A) read with section 151 CPC **is hereby allowed.**

The Assistant Director of Land Records, Taluk office, Mandya is appointed as court commissioner for the purpose of measuring the suit property as per memo of instructions filed by both appellant and respondent in person and to measure the property in the presence of both the parties by using scientific methods and submit the report to the court.

IV Addl. Sessions Judge,
Mandya