

Order on I.A.No.VII

The application I.A.No.VII filed by the Decree holder U/o 26 Rule 9 R/w 151 of CPC to prepare an 11-E Sketch for the suit schedule property, in the interest of justice and equity.

2. The application is supported by affidavit duly sworn by Decree holder, it is stated that, in the O.S.No.63/2019 dated 30.09.2022, Hon'ble Court was pleased to decree the suit in his favour against Judgment Debtor. In spite of the direction of the Hon'ble Court Judgment Debtor not come forward to execute the sale deed. Hence he has filed instant execution petition. Further it is stated that, he has already paid of Rs.3,500/- for the Tatkalik Phodi, but the Judgment Debtor is not allowing the survey official to do the phodi work, Hence files the instant application to appoint the court commissioner. Therefore, it is essential to appoint a Court Commissioner as there is a necessary for 11-E Sketch for the purpose of the registration of the sale deed for the schedule property for his name.

3. The Judgment Debtor has not filed objection in spite of give sufficient times. Hence objections to the IA taken as nil.

4. Heard the arguments of counsel for Decree holder.

5. The Decree holder has filed present application for appointment of Taluk Surveyor as Court Commissioner to fix the boundaries of petition schedule property. On perusal of the materials available on record, the Judgment Debtor had filed suit against Decree holder for the relief of specific performance of contract. It is stated that, in the O.S.No.63/2019 dated 30.09.2022, Hon'ble Court was pleased to decree the suit in his favour against Judgment Debtor. In spite of the direction of the Hon'ble Court Jdr not come forward to execute the sale deed. Hence he has filed instant execution petition. Further it is stated that, he has already paid of Rs.3,500/- for the tatkalik Phodi, but the Judgment Debtor is not allowing the survey official to do the phodi work. On going through the affidavit it can be seen that, the Judgment Debtor intentionally not coming forward to execute the sale deed and also Judgment Debtor is not allowing the survey official to conduct survey and to issue 11-E Sketch. If the instant application is not allowed definitely the Decree holder will be put into hardship and there will be no meaning for the court decree. Therefore, it is essential to appoint a Court Commissioner as there is a necessary for 11-E Sketch for the purpose of the registration of the sale deed for the schedule property for his name. No doubt the present petition has been file If the application is allowed and court commissioner is appointed, no

hardship would be caused to the Judgment Debtor. On the other hand the same is required to put an end to the litigation. Hence by considering the reasons this court proceed to pass following:

ORDER

The application I.A.No.VII filed by Decree Holder U/o 26 Rule 9 of CPC is hereby allowed.

The Taluk Surveyor of Survey Department, H.D.Kote is hereby appointed as Court Commissioner to measure the petition schedule property and fix the boundaries and to issue 11-E Sketch.

Both parties are at liberty to file their Memo of Instructions to the Court Commissioner.

The commissioner fee of of Rs.2000/- is fixed herewith.

Office to issue commissioner warrant if commissioner fee and process fee is deposited.

Await report.

Call on: 20.08. 2025.

(Dictated on line computer to the Stenographer, computerized by her, corrected and then signed by me and pronounced in the open Court on this the **18th day of July, 2025**)

Sd/-
(Mahesh.B.T)
Senior Civil Judge & J.M.F.C
H.D.Kote