

KAMS300000252020



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE
AND J.M.F.C AT HUNSUR**

Present: Smt.Anitha,B.A. (Law) L.L.B.,
Addl. Senior Civil Judge & JMFC.,
Hunsur.

Dated this the 12th day of June, 2024.

Ex Case No.4-2020

Decree Holder:

Sri.R.Somegowda,
S/o Late Nanjegowda,
Dead by his Lrs

- 1(a). Smt.Savithramma
W/o Late R.Somegowda,
Aged about 46 years,
R/at Vaddrahalli village,
Bilikere Hobli, Hunsur Taluk.
- 1(b). Smt.Nalini.S., W/o Prasanna
Kumar A.A., D/o Late R.Somegowda,
Aged about 26 years,
R/at No.287, Kergalli Main Road,
R.T.Nagar, Mysuru.

-Vs-

Judgment Debtors:

1. Sri.Nanjegowda,
S/o Late Kapanigowda
Aged about 60 years,
2. Smt.Channamma.
W/o Late Nanjegowda,
Aged about 50 years,
3. Sri. Shivananjegowda S/o Nanjegowda,
Aged about 45 years,

4. Sri. Swamygowda, S/o Nanegowda,
Aged about 38 years,
5. Smt. Sundramma, D/o Nanjegowda,
Aged about 32 years,

All are residing at Hullenahalli village,
Bilikere Hobli, Hunsur Taluk.

1.	Provision under which the applications are filed	:	Under Order 12 Rule 8 of CPC
2.	Relief sought for	:	Notice to produce documents
3.	The date on which the application is filed	:	06.04.2024
4.	Number of the applications	:	IA No.IX
5.	The date on which the objections are filed by different opponents	:	27.05.2024
6.	The date on which the orders passed on the said application	:	12.06.2024

ORDERS PASSED ON IA NO.IX

The applicants have filed IA.No.IX under Order 12 Rule 8 of CPC seeking notice to the decree holder and judgment debtor to produce the RTC of Sy.No.4/5 for the year 2001 to 2010, the mutation documents pertaining to the said property for the period 2001 to 2010, the Encumbrance certificate for the period from 2001 to 2010 and the partition documents entered in between Kapinigowda, his five sons and daughters.

2. This application is opposed by the decree holder. In the objection the decree holder contended that, already the evidence of decree holder was over. The objector has taken sufficient time to cross-examine the decree holder. The

objector is to prove his case and he cannot seek any documents from the decree holder. At the time of leading evidence decree holder produced all the documents. Further it is contended that, the document sought to be produced are public documents. The production of public documents cannot be sought under Order 12 Rule 8 of CPC. Furthermore, in the application the date of partition deed is not at all mentioned. Hence, prayed to dismiss the application with costs.

3. Thereafter, heard arguments addressed by learned counsel for the applicants and decree holder and perused the case papers. After hearing arguments and on perusal of the case papers the points that arise for consideration are as hereunder:

POINTS

1. Whether the applicants have made out sufficient grounds to direct the decree-holder and judgment debtor to produce documents mentioned in the application ?
2. What order?
4. The findings on the above points are as hereunder:

Point No.1: In the Negative

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

REASONS

5. **Point No.1:** This is the execution petition filed by the legal heirs of original decree holder against the judgment debtor as per the decree passed in OS No.178/2001 which was disposed on 02.08.2008. In the execution petition the decree

holder prayed to direct the judgment debtor to execute the registered sale deed infavour of the decree holders after receiving the remaining sale consideration and to deliver vacant possession of the schedule property or to appoint any court commissioner to execute registered sale deed on behalf of the judgment debtor.

6. After filing of the execution petition this court issued cause notice to the judgment debtors and they appeared before the court. In the meantime one Manjunath S/o Subbegowda filed IA.No.I under Order 21 Rule 97 to 101 R/w Section 151 of CPC. Furthermore, the applicants by name Nagamma and Madegowda have filed IA.No.II under Order 1 Rule 10(2) R/w Section 151 of CPC to implead them as applicants in this case.

7. The present application is filed by those applicants. As already stated above the application is filed seeking production of RTC, Mutation documents as well as Encumbrance certificate pertaining to the decree schedule property for the year from 2001 to 2010. They have also sought for production of partition documents in between Kapinigowda, his five sons and daughters. Admittedly, the documents No.1 to 3 are the public documents. The applicants can very well obtain those documents by making necessary applications to the concerned revenue authorities and registering authorities for certified copy. Furthermore, the date of document No.4 is not at all mentioned by the applicants.

Prima-facie it appears that the applicants have filed this application to drag on the proceedings. The applicants have not stated their difficulty in obtaining those documents from the concerned authorities. On the basis of the above discussions this court comes to the conclusion that the applicants have not made out any grounds for causing production of the documents from the decree-holders and the judgment debtors. Hence, Point No.1 is answered in the negative.

8. **Point No.2:** In view of the reasons discussed above this court proceeds to pass the following:

ORDER

IA No.IX filed by the applicants under Order 12 Rule 8 of CPC is hereby Rejected with costs of Rs.500/-.

(Dictated to the Stenographer, transcribed and computerized by him on the computer, transcript corrected and pronounced by me in the open court on this the 12th day of June, 2024.)

(ANITHA)

Addl. Senior Civil Judge and JMFC,
Hunsur.