

KAMS410009392021



**IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR**

PRESENT

Sri. Chandan S, B.Com., LL.B

Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 26TH DAY OF MARCH 2026

EX/36/2021

Decree Holder: Syed Munawar Pasha

-V/s-

Judgement Debtor: Syed Latheef

I.A.

Applicant : Syed Anwar S/o Late Syed Musthaf

--- Objector

-V/s-

Opponents : Syed Munawar Pasha

--- DHR

Provision under which the application is filed	U/o 47 R-1 R/w 151 of C.P.C.
Relief sought for	Review the order
The date on which the application is filed	25.02.2026
Date on which the objection is filed by the different opponent	25.02.2026
Date on which the order is passed	26.03.2026

ORDER ON I.A. FILED U/O 47 R-1 R/W 151 OF C.P.C.

The present application is filed U/o 47 Rule 1 R/w Sec.151 of C.P.C. seeking to review, revisit, refer and reconsider the order passed by this court on 02.02.2026 on IA No.6 filed by the objector U/o 26 R-9 of C.P.C.

2. The applicant/DHR has filed an affidavit in support of the application, the present execution has been filed against his brother for obtaining possession of the execution schedule property in the subsequent time he had obtained the execution schedule property through the instrument and document of unregistered Hibanama dated 10.06.1998 and he is in settled possession and enjoyment over the said property. Further according to the applicant, the decree holder behind the obstructor has obtained the judgment and decree in O.S No.191/1999. Therefore, he has filed detailed 3rd party obstructor application against the decree holder on 05.02.2024, the said application was dismissed by this court on 02.07.2025. Further being aggrieved and dissatisfied with the said order of dismissal he had preferred writ petition before the Hon'ble High court of Karnataka in writ petition No.25323/2025. Wherein the Hon'ble High court of Karnataka has passed an order deciding that, the decree holder is not entitled for excess of the property beyond the decree schedule.

3. Therefore, in order to put-forth actual measurement of the property details mentioned in the Hibanama and also property

claimed by the decree holder required to be measured, demarcated, identified and surveyed through the commissioner of the court since the decree holder is claiming orison and invocation the property of the objector. Therefore, the Hon'ble High court of Karnataka has passed an order to the effect that, the holder of the decree cannot seek, ask, claim and request more than the measurement, width, area, topography and beyond the extent shown in the decree.

4. Therefore, the decree holder is claiming, hearkening, soliciting, obsecration and panting to execute and enforce more than the extent what is granted in the decree. Wherefore, the said request of the decree holder cannot be assented or accepted in the light of the directions of the Hon'ble High court of Karnataka which has clearly held and decided that, the decree holder is entitled only to an extent granted under the decree but shall not surpass, exceed, heighten, increase and enhance his portion what is actually accepted. Therefore, it is just and necessary to review, re-appreciate, revisit and reconsider the order passed on IA U/o 26 R-9 of C.P.C. because of the reason that, the holder of the decree is not clear about the identification, measurement, extent, width, boundaries and area of the schedule property.

5. Under these circumstances, situation, precincts, instincts, juncture and stage it is in deed necessary just and proper to appoint the Commissioner of the court for the purpose of demarcation, identification and fixing the schedule property. Therefore according

to the applicant, no hardship, irregularities, injustice or prejudice would be caused to the other side by allowing the application. Contrary, resenting and conversely, heavy hardship, impairment, impediment, disdain, annihilate, defloration and irreparable loss would be caused to the applicant in dissenting and refusing the same. Therefore, the applicant is before this court through his counsel laying this application invoking, contemplating and enshrining the provision of Order 47 R-1 to re-appreciate, revisit, revamp, resurrect and review the very order passed by this court.

6. Wherein on the either side, contrarily, resenting, receding, reproaching, declining, censuring, obtestation and noping of the propositions, propounded averments contents, pleadings, description and the material averments proposed and submitted in the application, wherein the statement of objections would overt, exhibit, explicit, showcase and reveals that, the application of the JDR/objector do not sustainable, maintainable and subsist either in law or on facts.

7. Further according to the holder of the decree as it was specifically manifesto, rhetorically, zipilly, asserted that, this court has already decided, determined and objected the said application maintained, instilled and advanced by the applicant U/o 26 R-9 of C.P.C. Wherein according to the opponent/the decree holder, the said application has been contested, seriously, contours and infectiousness challenged and objected by this decree holder and

this court has finally adjudicated, determined and disposed of the said application dismissing the same being sans merit and on mettle. Although the objector claiming himself that, the order of this court has been challenged in the writ petition, no stay order has been extended, given, granted, obtained and sanctioned. Since the said application has been decided on its merit itself, the present application has been brought filed and submitted with solemn and prime intensity, object, purport, motive and in order to cause delay, prolong adjourn and expand the proceedings of the petition. Therefore, according to the decree holder/opponent, heavy cimmerian, sinewy, substantial, grave and aggravated forms of injury and loss will be caused to the decree holder in the event if the application is allowed. Hence, prays for dismissal of the application.

8. Heard the learned counsel for the applicant/objector and the decree holder. Perused the records.

9. The following points arise for this court's consideration.

1) Whether applicant has made out sufficient grounds for allowing the present application?

2) What Order?

10. This court findings on the above points for consideration are as under:

Point No.1: In the Negative

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

REASONS

11. POINT NO.1:

According to the applicant/objector, the decree holder has initiated execution proceedings seeking delivery of possession of the schedule property. The applicant claims to be in possession of the said property on the basis of an unregistered document dated 10.06.1998 and asserts his independent rights over the same. He had earlier filed an application objecting to the execution proceedings and also sought appointment of a Commissioner for measurement and demarcation of the property under Order 26 Rule 9 CPC. However, the said application came to be dismissed by this Court on 05.02.2024.

12. Being aggrieved, the applicant challenged the said order before the Hon'ble High Court of Karnataka. It is contended that the Hon'ble High Court, while disposing of the matter, observed that the decree holder cannot claim anything beyond what is granted in the decree. Relying on the said observation, the applicant submits that appointment of a Commissioner is necessary for proper identification and demarcation of the property. It is further contended that this Court failed to appreciate the said aspect while dismissing the earlier application, and therefore, the present review petition is filed.

13. Per contra, the decree holder strongly opposed the application contending that the earlier application filed under Order 26 Rule 9 CPC was considered in detail and dismissed on merits by a reasoned order. It is further contended that the present application is nothing but an attempt to delay the execution proceedings and deprive the decree holder of the fruits of the decree. It is also argued that the scope of review is limited and can be exercised only in cases of apparent error on the face of record, discovery of new evidence, or other sufficient reason, which is absent in the present case.

14. On perusal of the material on record, it is evident that this Court, while passing the order dated 02.02.2026, has elaborately considered all the contentions of the applicant and assigned cogent reasons for rejecting the request for appointment of a Commissioner. The said order is a speaking order passed on merits. The law relating to review is well settled. A review petition can be entertained only when there is an error apparent on the face of the record, or discovery of new and important matter which, despite due diligence, could not be produced earlier, or for any other sufficient reason. A review proceeding cannot be treated as an appeal in disguise.

15. In the present case, the applicant has failed to point out any apparent error, omission, or mistake in the order dated 02.02.2026. The grounds urged are essentially a repetition of earlier contentions already considered and rejected by this Court. Re-agitation of the same issues under the guise of review is impermissible.

16. Further, accepting the present application would result in reopening issues already adjudicated, thereby causing unnecessary delay in execution proceedings and prejudice to the decree holder, who is entitled to enjoy the fruits of the decree. In view of the above, this Court is of the considered opinion that the present application is devoid of merits and does not satisfy the requirements of Order 47 Rule 1 CPC. Hence this court inclined to answer the **point No.1 in the Negative.**

17. POINT NO.2:

In view of the above discussions and the reasons mentioned therein this court proceeds to pass the following:-

ORDER

The application filed by the applicant/objector U/o 47 R-1 R/w Sec.151 of CPC is hereby dismissed as being devoid of merits.

No order as to costs.

[Dictated to the Steno, transcribed by her. Corrected and then pronounced by me in the Open Court on this the 26th day of March 2026]

(Chandan.S)
Prl. Civil Judge & JMFC.,
K.R.Nagar.