

Ex.No.95/2023

ORDER ON I.A.I

The decree holder has filed this application under Order XXVI Rule 9, 10(b) r/w Section 151 of C.P.C. to appoint court commissioner to execute the registered sale deed pertaining to the petition schedule property. The affidavit shows that the suit was filed for the relief of specific performance of contract and that was decreed. Even after decree the judgment debtors have not come forward to execute the sale deed. Therefore the petitioner filed this application.

2. In the objection the judgment debtor No.1 has explained that already he preferred Miscellaneous Petition for restoration of the judgment and decree which is numbered as Mis.No.4/2023. So, the judgment debtor is contesting the judgment and decree. Suppose the application is allowed, it would definitely cause hardship to him. So, he prayed to reject the application.

3. Heard both sides. The main contention of the decree holder that even after decree of the suit, the judgment debtors have not come forward to execute the sale deed, whereas the judgment debtor submits that he already preferred Miscellaneous

Petition and it is pending for consideration. But the judgment debtor has not furnished any materials as to show the pending of Miscellaneous Petition. Therefore, it is not proper to kept abeyance of the petition in anticipation of the result of the alleged Miscellaneous Petition. So, I.A.I is allowed. However, the decree holder has not mentioned the name of the Commissioner. So, to nominate the court commissioner, call on 14.10.2025.

Senior C.J. & JMFC.,
Nanjangud.

09.09.2025