

ORDER ON I.A.II

The present application is filed by the applicant Sathish V. under Section 47 r/w Section 151 of C.P.C. to adjudicate the matter in dispute pertaining to Sy.No.71/2 measures 2 acres 38 guntas and Sy.No.436/1 measures 28 guntas. The applicant sworn that, he is the son of late Vishwanatha M. of Chinnadagudihundi Village, his father expired on 15.11.2009 at Mysuru. His father was the son of Masanaiah of Chinnadagudihundi village. His grandfather Masanaiah had 28 guntas of land in Sy. No.436/1 of Alaganchi village of Nanjanagud Taluk. It was allotted him in the family registered partition deed dated 25-07-1952. The decree holder and judgment debtors No. 1 to 3 belong to the same family. The decree holder and judgment debtors No. 1 and 2 were parties in O.S.85/2016. The decree holder had filed O.S.85/2016 for partition and separate possession of their share in the suit schedule property. The decree holder had filed FDP 12/2020 seeking the relief of final decree, with respect to preliminary decree passed in O.S.85/2016. It is further submitted that, the applicant is the owner in possession of 28 guntas out of 1 acre 16 guntas in

Sy.No.436/1 of Alganchi village of Nanjangud taluk. The decree holder and judgment debtors No.1 to 3 do not have any manner of right, title or interest over 28 guntas of land in S No.436/1 of Alaganchi village. If the dispute between the present applicant and parties is not determined at this stage, it will not cause hardship to the plaintiff. Hence, the applicant prays to consider this application for adjudication to determine his right.

2. In spite of sufficient time, the decree holder has not filed objections. Hence, the objection taken as not filed. Heard the learned counsel for the applicant.

3. Section 47 of C.P.C. mandates that all questions arising between parties to a suit (or their representatives) relating to the execution, discharge, or satisfaction of a decree must be determined by the executing court, rather than through a separate suit. It aims to prevent multiplicity of proceedings, ensuring efficiency in enforcing court decisions. The said Section limits to the parties to the original suit or their representatives. The third party claiming independent rights generally cannot invoke this section. The learned counsel for the

applicant says that the decree holder and judgment debtors No.1 to 3 are members of the same family and they were parties in O.S.85/2016. The present applicant claims to be the owner in possession of 28 guntas of property out of 1 acre 16 guntas in Sy.No.436/1 of Alaganchi Village. The present applicant was not the party in O.S.85/2016. As mentioned above, the Section clearly mandates and restricts to decide and determine the dispute of the parties of the suit, if an independent person come before the court to determine his right, he has to file separate application commonly calling third party claim. Hence, Section 47 of C.P.C. does not help the applicant. Hence, the following:

ORDER

I.A.II filed under Section 47 r/w Section 151 of C.P.C. is dismissed.

Senior C.J. & JMFC.,
Nanjangud.

11.02.2026