

KAMS510095182022



**IN THE COURT OF THE I ADDL CIVIL JUDGE
& JMFC, AT NANJANGUD
: PRESENT :**

**SMT. SARITHA KUMARI A.M.
B.A., L.L.B.,
I ADDL., CIVIL JUDGE & JMFC.,
AT NANJANGUD**

DATED THIS THE 08th DAY OF OCTOBER, 2025

EX.No.78/2022

Decree Holder :-

Sri.R.Raju

(By Sri.A C P - Adv.,)

-V/s-

Judgment Debtors:-

Sri.Mallikarjunappa

(By Sri.S B P- Adv.,)

Parties to I.A.NO.II

Judgment Debtors:-

Sri.Mallikarjunappa

-V/s-

Decree Holder :-

Sri.R.Raju

ORDERS ON I.A.NO.II

This is the application filed by the Jdr under order XXVI rule 10-B R/W 151 of CPC praying to appoint Shirastedar of this court to execute the cancellation/Redemption of Registered Simple mortgage deed on behalf of the Dhr.

2. In support of his application, Jdr has filed affidavit and sworn that, after judgment the Dhr did not come forward to execute the cancellation/Redemption of Registered Simple mortgage deed in favour of the Jdr, eventhough the Jdr has already been paid the execution petition claim to the Dhr. Hence he has filed this application.

3. On the other hand, the Dhr has not filed objections to the said application. Hence, objections to IA No.II taken as not filed.

4. Heard perused materials available on record.

5. The point that would arise for my considerations is that:

1. Whether the applicant has made out grounds for appointment of court officer for the cancellation/Redemption of Registered Simple mortgage deed in favour of the Jdr?

2. What Order?

6. My finding to the above point or as follows:

Point No.1 :- In the affirmative,

Point No.2:- As per order for the following;

REASONS

7. Point No.1: The counsel for the Jdr has argued that the he has filed this application for the cancellation/Redemption of Registered Simple mortgage deed against the Dhr. The jdr in his affidavit states that, after the service of the notice he paid the maximum amount of the petition claim and small amount is remaining to pay for Dhr. But, the Dhr has not come forward to execute the cancellation/Redemption of Registered Simple mortgage deed dated:05.07.2008 which is executed by the Jdr for the property mentioned in the schedule. Eventhough the Jdr is ready for execution the Dhr is doesn't want to execute the the cancellation/Redemption of Registered Simple mortgage deed. The Jdr is ready to deposit the remaining amount. Hence, grounds are made out.

8. In the totality of the facts and circumstances this court is of the opinion that the Jdr has made out a ground to allow the application. **Accordingly, Point No.1 answered in the Affirmative.**

9. Point No.2:- From the foregoing discussions and reasons stated therein and in view of my findings to point No.1, I proceed to pass the following:

ORDER

I.A.No.II filed by Jdr Under order 26 Rule 10-B is hereby allowed

The Sri. Surya Narayan, Shirasthedar, Prl. C. J, Nanjangud is hereby appointed as a Court Commissioner.

The commissioner fee of Rs.1,500/- is fixed tentatively and the applicant is directed to deposit the same.

Issue commissioner warrant if Jdr has deposited the remaining balance amount along with interest (interest should be calculated till deposit of balance amount)

Call on. 06.11.2025

(Dictated to the Stenographer, transcribed by her, corrected and signed by me and then pronounced in open court on **08th day of October-2025**)

**(Saritha Kumari A.M)
I Addl. Civil Judge & J.M.F.C
NANJANGUD.**