

KARC020033352021



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE
AND JMFC-I., AT: Raichur.,**

: PRESENT :

**Present: Sri. Shankarappa Malashetti
B.com, L.L.B.,(Spl)**

**Addl. Senior Civil Judge & JMFC-I.,
Raichur.**

O.S.42/2021

Dated this the 18th day of June 2026.

Between.

1. M. Mangayamma W/o Nagabhusanam,
Age: 54 years, Occ: Housewife,
R/o. H.No.1-3-576/1/5, Ashapur Road,
Tq and District: Raichur.

...Plaintiff

And:

1. Maddipeti Aruna W/o Late. Somaraju M. D/o Pendyala
Bapineedu,
Age: 42 years, Occ: Housewife.
2. Lakshmi Kavya Prasanna D/o Late. Somaraju,
Age: 25 years, Occ: Private Service,
C/o. Pendyala Bapineedu, Private Service.
3. Swetha D/o Late. Somaraju,
Age: 25 years, Occ: Private Service,
C/o. Pendyala Bapineedu,

(Defendant No.1 to 3 are opposite MLA building,
Dommeru Savaram, Dommeru Village, Kovvur,
Tq: West Godavari Dist: Andrapradesh)

4. Seethamahalakshmi D/o Late Veerraju,
Age: 21 years, Occ: Student,
C/o. Atthinti Gundu Raju, Bangalri Camp,
Tq: Sindhanur, Dist: Raichur.

...Defendants.

PARTIES TO I.A.No.10 and 11

Between.

1. M. Mangayamma W/o Nagabhusanam,

...Applicants / plaintiff

And.

1. Maddipeti Aruna W/o Late. Somaraju M. D/o Pendyala
Bapeneedu and others.

... Opponents / defendants

ORDER ON I.A.NO.10 and 11

The plaintiff has filed I.A.No.10 U/Sec. 151 of CPC for recall of her evidence and IA.No.11 U/O. 18 rule 17 of CPC for reopen of evidence of PW-1 to lead further chief examination.

2. The defendant No.1 to 3 have filed objections to the applications stating that in order to fill up lucana the applications have been filed which cannot be allowed.

3. Heard arguments on both sides.

4. The point for consideration are as follows:

1. Whether the plaintiff has made out grounds to allow the IA.No.10 ?

2 Whether the plaintiff has made out grounds to allow the IA.No.11?

3. What order?

5. My findings on the above points are as under:

Point No.1 and 2. In the Negative.

Point No.3 As per final order, for the following:

:REASONS:

6. Points No.1 and 2 :- Both points are connected to each other. Therefore in order avoid repetition they were taken together.

7. The plaintiff has filed the IA.No-10 and 11 for recall and reopen of her evidence to lead further chief examination on the ground that she claiming the suit properties as a class-I heir of her sons. She desires to bequeath her property to her daughter by name Nagamani and she alleged to be executed the Will Deed in favour of her daughter. But in the cross examination she denied the execution of Will under the misconception and confusion.

Therefore in order to clarify her stand she wants to adduce her further chief examination.

8. The defendant No.1 to 3 denied the contents of application and affidavit and stated that PW-1 has categorical denied the execution of Will in her cross examination. So at the stage, only to withdraw the admission and fill up the lucana the applications have been filed. If the applications are allowed it will cause irreparable loss to the defendants. Therefore prays to reject the applications with cost.

9. On perusal of applications, objections and hearing arguments on both sides, it is suit for partition and separate possession filed by the mother of the deceased sons against her daughter-in-law and grand-children. During the cross examination dated 13-03-2025 PW-1 has admitted that she not executed the Will. Now the plaintiff has filed the present applications to lead further chief examination on the ground that due to her old age and under misconception she has denied the execution of Will. Further she stated that she intends to transfer her properties to her daughter by name Nagamani, therefore she alleged to be executed the Will in favour of daughter. Now in order to withdraw the same admission and fill up the lucana she has filed application. Further it is settled principle of law that

any party could not be permitted to withdraw their admissions either in the pleadings or in the evidence. The alleged Will is not the fact in issue and it is not relevant to the case on hand. The suit is only for partition and this court has to decide whether plaintiff is entitled for the share in the suit schedule properties. There is no pleading about the alleged Will. This court is not deciding the about the legality of the Will. Therefore the applications filed by the plaintiff are not sustainable.

10. If the applications are allowed the defendant No.1 to 3 will be put to much hardship that cannot be compensated in terms of money. In view of admission of PW-1 certain rights were accrued to the defendant No.1 to 3, so if the applications are allowed the defendants will be deprived from their accrued rights. Therefore the plaintiff has not made out grounds to allow the applications. Therefore the point No.1 and 2 are held in Negative.

11. Point No.3 as per discussion and finding on point No.1 and 2. I proceed to pass the following:

: O R D E R :

Interim Application No.10 filed by plaintiff
I.A.No.10 U/Sec.151 of CPC is hereby rejected in
the ends of justice and equity.

Interim Application No.11 filed by plaintiff
IA.No.11 U/O. 18 rule 17 of CPC is hereby
rejected in the ends of justice and equity.

(Dictated to the Stenographer, directly on computer corrected and then pronounced by me in
the open court, this the 18th day June-2026)

Sd/-
(Shankarappa Malashetti)
Addl. Senior Civil Judge
& JMFC-I, Raichur.