

KASM710005262018



IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC, SORABA

PRESENT

SRI.R.CHANDRAPPA HONNUR, M.A.LL.B(Spl.)

Senior Civil Judge and JMFC, Soraba.

DATED THIS THE 19TH DAY OF NOVEMBER 2025

OS NO.40/2018

PLAINTIFFS: Sri. Ramamurthy
Dead by Lrs
 Dr. A.R. Raghuveer and others
 // Versus //

DEFENDANTS: Sri. Kotreshappa and others

IA Nos.18 to 21

APPLICANT/ : Sri. Kotreshappa and others

DEFENDANTS

(By Sri. D K P., Adv.)

// Versus //

OPPONENTS/ : Sri. Ramamurthy
 PLAINTIFFS **Dead by Lrs**
 Dr. A.R. Raghuveer and others

(By Sri. M R P., Adv.)

i	Provision under which the applications are filed	IA No.18- Sec.151 of CPC IA No.19-Order 8 Rule 1(3) of CPC IA No.20-Order 18 Rule 17 of CPC IA No.21-Order 14 Rule 2(2) r/w Sec. 151 of CPC
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ii	Reliefs sought for	IA No.18-Reopening of case IA No.19-Production of document IA No.20-Recall of PW.1 and DW.1 IA No.21-Framing of additional issue
iii	The date on which the applications are filed	24.10.2025
iv	Number of the applications	IA Nos.18 to 21
v	The date on which the objections are filed by different opponents	25.10.2025
vi	Date on which the orders were passed on the said application	19.11.2025

COMMON ORDERS ON IA NOS.18 TO 21

When the case is posted for arguments of defendants, the defendants have filed IA Nos.18 to 21 for reopening the case, production of document, recall of PW.1 for further cross examination, DW.1 to lead further chief examination and for framing of additional issue.

2. The defendant No.1 has sworn to an affidavits in support of IA Nos.18 to 21, he stated in the affidavits that the plaintiffs have filed a suit for declaration, possession and damages of Rs.500/- per annum. Both side evidence as well as arguments of plaintiff side has already completed. The property involved in the suit is tenancy property. Myself and other defendants have filed form No.7A for confirmation of the occupancy rights in respect of the suit property before

the Land Tribunal, Soraba and accordingly VR No.2/99-2000 has been registered and matter is posted before the Land Tribunal, Soraba on 18.11.2025. Therefore, reopening of the case is necessary to produce document, adduce further evidence and recall of PW.1 for further cross examination.

The deponent further stated that the suit property is khaneshumari property, saguvani trees in the suit property from the life time of my ancestors, suit property is used for grazing cattle. Until obtaining final order by the Land Tribunal, this court has no authority to inquire into the right over the suit property hence, it is necessary to transfer the case to the Land Tribunal, Soraba. The deponent further stated that it is necessary to frame additional issue as follows:

1. Whether the defendants prove that this court has no jurisdiction to try the suit?

Therefore the deponent has prayed to allow the applications.

3. The applications filed by the defendant No.1 are opposed by the plaintiffs by filing a common objections. The plaintiffs have contended that the defendants have filed the applications at belated stage hence, the same are not maintainable in law. The suit was filed in 2018, the defendants have not led evidence and the suit was decreed. The defendants have preferred an appeal in RA

No.10017/2022 before the Hon'ble V Addl. District and Sessions Court, Shivamogga (sit at Sagara) and the matter was remanded to this court by giving an opportunity to the defendants to adduce their evidence. Even after hearing arguments, the defendants have filed several applications and led their evidence. The suit property is khaneshumari property and the same is not coming under the jurisdiction of Land Tribunal. The defendants have filed form No.7A before the Land Tribunal and filed these applications to produce document, adduce evidence and court has to frame the additional issue. The defendants have not made out any grounds to allow the applications. The defendants have filed these applications to drag on the proceedings. The suit property has been not leased for agricultural purpose hence, prayed to reject the applications.

4. Heard arguments on both sides. Perused the materials on record.

5. The following points would arise for my consideration:

- 1) Whether the defendants have made out grounds to allow the applications?
- 2) What order?

6. My findings to the above points as follows:

Point No.1:Partly in the affirmative

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

REASONS

7. **POINT NO.1:** The plaintiffs have filed a suit for declaration, possession and damages of Rs.500/- per annum. The defendants have appeared through their counsels. The defendant No.1 has filed the written statement. The defendants No.2 to 4 have adopted the written statement filed by the defendants No.3 and 4 by filing a memo.

On the above pleadings the court has framed issues, both side evidence as well as arguments of plaintiff side has already completed. When the matter is posted for arguments of defendants' side, the defendants have come up with these applications to reopen the case, production of document, recall of PW.1 for further cross examination, recall of DW.1 to lead further chief examination and framing of additional issue on the point of jurisdiction of the court. The plaintiffs have seriously objected the applications filed by the defendants. It is contended in the objections that the defendants have habit of filing a similar applications one after another and successfully dragged the proceedings. Therefore, the defendants prayed to reject the applications filed by the defendants.

By a perusal of the materials on record, it is noticed that since beginning the defendants have been filing applications one after another to drag on the proceedings. It is a settled position of law that issues are to be raised by the

court on the basis of pleadings of the parties. In the instant case, the defendants have nowhere pleaded in the written statement that the tenancy dispute in respect of the suit property is pending before the Land Tribunal, Soraba hence, this court has no jurisdiction to try the suit. Therefore, the application filed by the defendants for raising issue on the jurisdiction of the court deserves to be rejected. The applications filed by the defendants for reopening the case, production of document, recall of PW.1 for further cross examination and recall of DW.1 to lead further chief examination are deserving to be allowed by imposing heavy cost and the same can be compensated to the other side. Accordingly, point No.1 answered partly in the affirmative.

8. **POINT NO.2:** In view of the finding recorded on point No.1, I proceed to pass the following:

ORDER

IA No.18 filed under section 151 of CPC, IA No.19 under order 8 Rule 1(3) of CPC, IA No.20 under order 18 Rule 17 of CPC by the defendants are allowed on cost of Rs.1,000/- each.

IA No.21 filed under order 14 Rule 2(2) r/w section 151 of CPC by the defendants is rejected.

Case is reopened, document taken on record,
PW.1 is recalled for further cross examination by
the defendants and DW.1 is recalled to lead further
chief examination subject to payment of cost.

(Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this the 19th day of November 2025)

(SRI. R.CHANDRAPPA HONNUR)
Senior Civil Judge & JMFC, Soraba