

KAUK510001662014



**ORDERS ON IA NO.10**

The instant application is filed by the respondents No.2(b), 2(c), 2(d), 3(a), 3(b), 3(d)(i) and 3(d)(ii) under Section 151 of C.P.C to set aside order dated 22.01.2015 in respect of taking their objections to Court Commissioner report as Nil and permit them to file objections to Court Commissioner report.

In the affidavit filed in support of the instant application, it is stated by the respondent No.2(d), they have appeared in the present case on 15.12.2022 and since then the matter is being posted for amendment and filing of additional objections and for arguments. It is further stated that, no objections has been filed to the report of Court Commissioner and no evidence is led. Filing of objections to Court Commissioner for himself and on behalf of his brothers and sisters is just and necessary as Court Commissioner report is one side report. It is also stated that, the Court Commissioner report is against the settled principles of law and the Commissioner has not followed the guidelines to set to demarcate the suit properties and the Commissioner has not shown proper road and boundaries and as such, it is necessary to allow them to file objections.

On the other hand, the petitioners have filed objections to the instant application wherein, they have contended that, the respondent No.2(d) is appearing

in the present case since the date of filing of this petition as he is the original party to the present petition. It is further contended that, since 2018, one or other ground, the respondents are protracting this case. The Court Commissioner has submitted his report on 22.01.2015 and till today the respondents have not filed the objections. The report submitted by the Court Commissioner is in accordance with law as preliminary decree and the same is well withing the knowledge of respondents. In spite of the same, the respondents have failed to file objections till 02.03.2023. When the objections were taken as Nil, the concerned respondents have come up with the present application with malafide intention and as such, the instant application is liable to be rejected.

It is also submitted that, the application filed by the counsel for the respondent No.2(b)(c) who has no vakalat for them and he has no locus standi to represent the above respondents. With these contentions, the petitioners have prayed to reject the instant application.

Heard on both side and perused the entire materials.

The matter of the year is 2014. The respondent No.2(d) who has submitted affidavit to the instant application is one of the original party to the present application. In spite of the same, the respondent No.3 and other respondents appearing as LRs of deceased Sri. Somaning Javalkar have failed to file objections to Court Commissioner report. Though there is an enormous delay in filing the instant application but, to provide an opportunity to the said respondent and to meet the principles of natural justice, Court opines that, the

instant application can be allowed by imposing cost on the respondents hearing who have filed the present application. Hence, Court proceeds to pass the following:

**ORDER**

I.A No.10 filed by the respondents No.2(b), 2(c), 2(d), 3(a), 3(b), 3(d)(i) and 3(d)(ii) under Section 151 of C.P.C is hereby allowed on cost of Rs.1,000/-.

Consequently, the respondents No.2(b), 2(c), 2(d), 3(a), 3(b), 3(d)(i) and 3(d)(ii) are permitted to file objections to Court Commissioner subject to payment of cost.

If the learned counsel Sri. G.G.G has not filed vakalat for respondents No.2(b)(c), he has to file necessary vakalat or he shall not appear for them in further proceedings.

**Civil Judge &JMFC.,  
Haliyal.**