



ORDERS ON I.A NO.XI

The instant application is filed by the respondent No.1(a) to 1(h) under Section 151 of C.P.C to set aside order dated 17.08.2023 in respect of taking their objections to Court Commissioner report as nil and permit them to file objections to the report of Court Commissioner.

In the affidavit filed in support of the instant application, the respondent No.1(d) has stated that, the father of the petitioners has filed O.S.No.97/1982 before this Court for partition and separate possession which was decreed. By challenging the same, R.A.No.66/2006 was preferred and the same was came to be dismissed on 26.11.2013 and by challenging the same, RSA No.100105/2014 has been filed and the same is pending.

It is further stated that, this Court has appointed Court Commissioner to measure the suit properties as per preliminary decree but, the Court Commissioner was conveyed with regard to pendency of RSA and as such, Court Commissioner has returned without executing commission work. In view of the same, the respondents No.1(a) to 1(h) were under the impression that, commission work

was not executed but, recently, the respondents No.1(a) to 1(h) came to know about submission of report by Court Commissioner. The lacunas in the work of commissioner and report has to be brought before this Court to reject the same and as such, it is necessary to allow the instant application.

On the other hand, the petitioners have filed objections wherein, they have contended that, the instant application is barred by law. In spite of availing opportunities, the respondents have not filed objections and they have not shown any grounds to allow the instant application.

It is further contended that, the respondents are one or the other ground prolonging the matter and they have also obstructed the commissioner work which amounts to contempt of Court orders and as such, the instant application is liable to be rejected.

Heard on both side. Perused the entire materials.

The matter is of the year 2014. The respondents No.1(a) to 1(h) are well aware of report of Court Commissioner since the report is submitted to the Court by the Commissioner. In spite of the same, they have not chosen to file objections to the same. Now at belated stage, the instant application has been filed. Though there is an enormous delay in filing the instant application but, to provide an

opportunity to the said respondents and to meet the principle of natural justice, Court opines that, the instant application can be allowed by imposing cost on the respondents No.1(a) to 1(h). With this, Court proceeds to pass the following:

ORDER

I.A No.XI filed by the respondent No.1(a) to 1(h) under Section 151 of C.P.C is hereby allowed on cost of Rs.1,000/-.

Consequently, the respondent No.1(a) to 1(h) are permitted to file objections to the Court Commissioner subject to payment of costs.

Civil Judge & JMFC
Haliyal