

06-03-2026

ORDERS ON MEMO DATED 21-01-2026

Counsel for the 1st respondent filed a memo stating that the 1st respondent could not trace the old documents due to her ailing condition. Thus prays to permit them to lead her chief examination

as permitted by this court vide order dated 4-8-2025.

This was a memo filed by the 1st respondent, where there was already an order passed by this court, permitting the 1st respondent to lead evidence. There was no necessity for the counsel for the petitioners to have objected for the said memo, where the entire order passed by this court was already in existence. However, in spite of it, the counsel for the petitioners prayed time for objections and an opportunity was provided. Thus by filing objections, the counsel for the petitioners objects that the memo is filed only to drag on the further proceedings and that the 1st respondent is deliberately dragging the above case since one year, by taking several adjournments. Also submits that the 1st respondent is mis-using the leniency of the court and prays to reject the memo.

Heard from the counsel for the petitioners and 1st respondent.

At the first instance, this is a petition pertaining to the year 2024, where 1st respondent claimed share under equity and sought for examination of the 1st respondent to prove the same. The same was permitted. However, the 1st respondent was claimed to be the resident of Mumbai and being age old, was unable to move from Mumbai to appear before Karkala Court. Thus an application was filed seeking appointment of court commissioner, which also came to be allowed. However, the 1st respondent took adjournment to furnish the documents, where the petitioners were permitted to cross-examine through video conference (V C). Now the present memo is filed.

There is already an order passed by this court dated 04-08-2025. By filing this memo, the 1st respondent is trying to proceed with the case and submits that the 1st respondent cannot trace out the documents due to her ailing condition, which the counsel for the 1st respondent has already

submitted that she is in the bed and unable to walk. No harm will be caused if the memo is allowed or rejected. This memo is filed only to provide information that the 1st respondent is unable to procure any documents to show improvements effected by her in the suit property, where the order of this court dated 04-08-2025 was still in force. However, the counsel for the petitioners has objected , also has rendered a detailed arguments. Counsel for the petitioner also seriously objects to follow the procedure, where the counsel for the 1st respondent seeks time for reply. This court was to provide an opportunity. However, considering the facts of the memo, the court proceeded to post the case for orders, without providing an opportunity to the counsel for the 1st respondent. Therefore, at this stage, question of rejection of the memo filed by the 1st respondent does not arise.

Hence the following:

ORDER

The memo dated 21-01-2026 filed by the 1st respondent is accepted.

The order passed by this court dated 04-08-2025 shall be in force.

The Chief examination of 1st respondent can be conducted through the court commissioner.

For appointment of court commissioner call on

(SHARMILA C.S.)

Senior Civil Judge & ACJM, Karkala