

12-12-2025

ORDERS ON I.A.

Counsel for the judgment debtor No.1 has filed I.A., under Section 151 of CPC to recall the order dated 27-09-2025.

As per the order of this court dated 27-09-2025, the judgment debtors were directed to hand over the property to the decree holder within two months from 27-09-2025. This order was passed upon the request of the counsel for the judgment debtor No.1 by keeping I.A.No.1 ad 2 in abeyance, where the counsel for the judgment debtor No.1 submitted that they would hand over the property after proper survey. However it is pertinent to note that the counsel for the judgment debtor No.1 passed away in the meantime and it appears that the judgment debtors No.1 and 2 have not complied with

the said orders. Thus the counsel for the decree holder after two months got put up the matter and insisted for an order on I.A.No.1 and 2 , where the decree holder has sought for issuance of delivery warrant with the assistance of the police. In this regard, counsel for the judgment debtor No.1 filed the present I.A., and prays to recall the order dated 27-09-2025.

The judgment debtor No.1 deposes that the survey of the decretal property was done without following the principles of natural justice and he was not notified about the date of visit either by the surveyor or by the court bailiff. That since her counsel passed away on 03-10-2025, she could not know about the order passed by this court on 27-09-2025. She further undertakes and deposes that she is ready to comply with the decree only after proper identification of the decretal property

and she is ready to co-operate with the surveyor and the bailiff. That she is ready to vacate and hand over the vacant possession on proper identification and demarcation of the decretal property.

Counsel for the decree holder has submitted no objection.

When there is undertaking by the judgment debtor No.1 that she is ready to co-operate with the surveyor and for the unfortunate death of the counsel for the judgment debtor No.1, the court has to believe the words of the judgment debtor No.1. Therefore, at this stage, it would be fit and necessary to provide two months time again for the judgment debtor No.1 to hand over the property to the decree holder.

Hence the following:-

ORDER

The judgment debtor No.1 is directed to hand over the decretal property to the decree holder within two months from today by proper survey and proper identification of the decretal property. If the judgment debtor No.1 fails to comply with the abovesaid order, the decree holder is at liberty to take proper steps against the judgment debtor No.1 to get the delivery of the property.

The court bailiff and the surveyor shall communicate the date of visit to the property either to judgment debtor No.1 or to her counsel.

The expenses shall be borne by the decree holder.

(SHARMILA C.S.)
Senior Civil Judge & ACJM, Karkala.

