

KAVN300014722017



**IN THE COURT OF THE CIVIL JUDGE & JMFC.,**

**AT: HAGARIBOMMANAHALLI**

DATED THIS THE 24<sup>th</sup> DAY OF JANUARY 2026

: **PRESENT:**

**SRI. SAYED MOHIUDDIN URF KHAWAJA PEERAN., BA. LLB.,(Spl.)**  
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.

**O.S.No.127/2017**

**PLAINTIFF/s :** **Smt. Kesaramandi Shavantravva**  
**W/o Late K.Nagappa, Dead by her LRs**  
**K.Kadlappa S/o.K.Nagappa**  
Aged about: 55 years, Occ: Agriculturist  
R/o Varadapura Village, H.B.Halli Taluk,  
Vijayanagara District.

**Vs**

**DEFENDANT/s :** 1) **Hologundi Kotresh S/o Late Basappa**  
Aged about: 55 years, Occ: Agriculturist  
R/o Chilagodu Village, H.B.Halli Taluk,  
Vijayanagara District.

2) **Smt. Nagamma W/o Kotesappa,**  
Aged about: 56 years, Occ: Housewife,  
R/o House NO.158, Chilagodu Village,  
H.B.Halli Taluk, Vijayanagara District.

**I.A.No.XII**

**APPLICANTS/DEFENDANTS : Nagamma W/o Kotresh**

(Rep. by Sri. **V.N.**, Advocate)

**V/s**

**RESPONDENTS/Plaintiffs: K. Savithravva since dead by LRs  
Kadleppa**

(Rep. by Sri. **A.K.**, Advocate,

**ORDER ON I.A.No.XII**

The defendant No.2 has filed the I.A.No.XII under Order XXVI Rule 9 R/w.Sec.151 of CPC, for appointment Taluka Surveyor as Court Commissioner to visit the spot and conduct survey of the suit schedule property and to submit the report with regard to boundaries of the suit schedule property.

**2.** In the accompanying affidavit to the said I.A., it is stated by the defendant No.2 that, the plaintiff has filed the present suit against the defendants for the relief of declaration of title and Permanent Injunction with respect of suit schedule property. Now both side evidence is concluded and case has been posted for arguments. As per the plaint, written statement averments and evidence of the witnesses there is a dispute with regard to boundaries of the suit schedule property. Therefore it is just and necessary to conduct the survey by the Taluka Surveyor and to submit the report. If the application is allowed no injustice will be

caused to the plaintiff. If the application is not allowed defendant No.2 will be put to hardship. Hence, he prays to allow the I.A.

**3.** To the said application, the plaintiff has filed the objections and denied the case of the defendant and further contended that, the present application is not maintainable, the defendants are not the owners of the suit schedule property. With an intention to drag on the proceeding the plaintiff has filed the false application. Hence they prays to dismiss the application.

**4.** Heard the arguments and perused the records.

**5.** The following points arise for my consideration:

**1. Whether the defendant No.2/applicant has made out a ground to allow the I.A.No.XII for appointment of Court Commissioner ?**

**2. What order?**

**6.** My answers to the above points are as follows:

Point No.1 : In the **NEGATIVE**

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

### **REASONS**

**7. Point No.1**:- The present suit is filed by the plaintiff against the defendants for the relief of declaration of title and

Permanent Injunction with respect of suit schedule property. After completion of both the side evidence, when the matter was posted for arguments the defendant No.2 has filed the present application. According to the plaintiff he is the absolute owner and in possession of the suit schedule property and the defendant have no manner of right, title and interest over the suit schedule property. The contention of the defendant No.2 is that the defendant No.2 is in possession and enjoyment over the suit schedule property. The defendant No.2 in the written statement she has claiming the title and possession over the suit schedule property, in the written statement the defendant No.2 has not dispute the boundaries of the suit schedule property. In the written statement the defendant No.2 has admitted the boundaries and extent of the suit schedule property and she is claiming to be the owner and in possession of the suit schedule property. Under such circumstances, I am of the opinion that to decide the controversy between the parties the oral and documentary evidence adduced by the parties are sufficient. Both the parties are claiming their title over the suit schedule property. Therefore, I am of the opinion that, in the present case on hand to decide the

controversy between the parties there is no need to appoint Court Commissioner. As already stated above the materials available on record are sufficient to decide the real question in controversy between the parties. On the basis of above reasons and discussions, I answer **Point No.1** in the **NEGATIVE**.

**8. Point No.2** :- For the aforesaid reasons and discussions made above, I proceed to pass the following:-

**ORDER**

I.A.No.XII filed by the defendant No.2  
under Order XXVI Rule 9 R/w Section 151 of  
CPC for appointment of Court Commissioner  
is hereby dismissed.

*(Dictated to the Stenographer, transcribed and computerized by her, corrected by me, and then pronounced in the open court on this the **24<sup>th</sup> day of January 2026.**)*

**(SAYED MOHIUDDIN URF KHAWAJA PEERAN)**  
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.