

**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC
ITINERARY SITTING AT SENIOR CIVIL JUDGE
HUVINAHADAGALI**

Dated this the 12th day of September 2025

PRESENT

MADHUSUDHANA D.K.

Itinerary Senior Civil Judge
Huvinahadagali

EP. No. 21/2018

**Decree Holder : Harijana Adivappa
dead by his Lrs
A K Mariyappa and Others**

V/s

Judgment Debtor: K. Halappa since dead by his LR's

**ORDERS ON IA NO.43 FILED UNDER ORDER 22
RULE 10 READ WITH SECTION 151 OF C.P.C.**

The Objectors No.1(a) to 1(e) and 7 have filed the above IA No.43 to implead one Sri. Ganesh Itagi and Sri.Thirukana Gowda as Additional Respondents.

2. In support of the IA No.43, the Objector No.1(d) has filed his Affidavit by deposing on oath for himself and also on behalf of other Applicants. In brief, he has contended that, *himself and other Objectors along with his father have filed the IA No.16 and IA No.23 to 30 as Objectors by seeking Declaration and Permanent Injunction in respect of the Execution Schedule Property. The Objectors are the Grantees of the Execution Schedule Properties by virtue of the Order dated 30.10.1981 passed by the Land Tribunal in Hadagali dated 584/1974-75. In the said Order, the Tahsildar had acquired 26.38A of Land on the basis of the Declaration given by the Jdr No.1 Sri. K.Channabasappa on 29.09.1981. On 30.10.1981, the Special Assistant Commissioner had granted the said*

Land in favor of the Objectors and their fathers and the same has been reflected in the Column No.12 of the RTC Extracts till the Year 1991. Since the date of the Grant, the said 9 Grantees are in Possession and Enjoyment. The Jdr No.1 had filed Writ Petition No.22746/1982 by suppressing the Order dated 30.10.1981 and the Hon'ble High Court has quashed the Order dated 29.09.1981 and remitted the Case to the Land Tribunal to decide the Case as per the guidelines given in the Case of **Paravva Vs State of Karnataka**. But, on 10.02.1988, the Land Tribunal has passed the Order to the effect that, no surplus Land is available and the Land in question was fallen to the share of Decree Holder No.1. The Dhr No.1 had filed the OS No.11/1991 against the Jdr No.1 without making the 9 Grantees as Parties and obtained Decree of Declaration and Recovery of Possession and for mesne profits. The Jdr No.1 had filed the RA No.9/1993 and the Appeal was dismissed and the RSA No.10887/2015 filed by the Jdr No.1 was also came to be dismissed by confirming the Decree passed in favor of the Dhr No.1 and the SLP No.032180/2015 filed by the Jdr No.1 was not even admitted by the Hon'ble Apex Court. When the facts are standing like this, the Lrs of the Decree Holder No.1 have sold the entire land in question in favor of Barkath Ali, Parashuramappa, Y. Ramappa and Panduranga. On 31.07.2021, the Father of the Objector No.1(d) had filed impleading application to implead the said Purchasers, but the said IA No.20 was rejected by the Court. On 19.01.2022, the Court Bailiff had delivered the Land in question to the Decree Holders with Police Help in spite of standing crop and obstruction being caused by the 9 Grantees. On 25.05.2022, the Transferee Pendente lite have sold the entire land in favor of the Proposed Respondents of the IA No.43 and the said Proposed Respondents have filed the OS No.94/2025 before the Civil Judge in Hadagali and they have obtained Temporary Injunction Order on 17.07.2025. Since the Pendente lite Transferee are bound by the outcome of this Petition, the Objectors have prayed for impleading them as Additional Respondents.

3. The Counsel for Decree Holder has filed detailed Objections by denying the IA No.43. In brief, he has contended that, *the Provisions of the Law invoked to file the IA No.43 are not applicable to Implead Third Parties. The Objectors have already filed so many Interim Applications earlier to filing this IA No.43. They have already examined their Witnesses and got marked their Documents. The Decree Holders have also examined the RW1 and at the stage of cross-examination of the RW1, the IA No.40 to 43 are filed. The Decree Holders have obtained the Possession by the Order of the Court on 19.01.2022 and for their financial necessities, they have sold the Properties except the Sy.No.87. The Third Parties are in actual possession of the properties and they have also sold them in favor of the others. The subsequent Purchasers have filed the OS No.94/2025 against the present Objectors for the relief of Permanent Injunction. Until and unless the Objectors are able to prove their Right, Title and Possession as per their IA No.16, they could not seek impleading the Additional Respondents. The Judgment Debtors are unsuccessful in getting the Decree reversed in their favor and therefore, they have colluded with the Objectors and they are trying to cause the delay when the litigation was attained finality even before the Supreme Court and therefore, the Counsel for Decree Holder has prayed for dismissal of the IA No.43.*

4. I have heard arguments of Rival Parties and perused the Material placed on Record.

5. The following Points are arisen for My consideration:

POINTS

- 1) Whether the Objectors show that, the Proposed Respondents are necessary Parties to decide Objectors Rights in their IA No.16?**
- 2) What Order?**

6. Now, My answers to the above Points are as follows:

ANSWERS

POINT NO.1: In the Negative

POINT NO.2: As per the final Order, for the following:

REASONS

7. **POINT NO.1** : I have already narrated the Case of the Decree Holders and the Objectors at the inception of the above Orders and therefore, to avoid repetition, the same will not be reiterated here.

8. The Applicants of the IA No.43 are admittedly Third Party/Objectors and they have filed the IA No.16 dated 31.08.2019 under Order 21, Rule 97 and 99 of CPC. It is not out of place here to note that, I am the Third Presiding Officer hearing this Case since the date of filing of the IA No.16 to this date. It is the contention of the present Applicants that, *the Original Jdr No.1 had challenged the Judgement and Decree in OS No.11/1991 by filing the RA No.09/1993, the RSA No.100887/2015 and the SLP No.032180/2015 and he was unsuccessful in getting the Judgment and Decree set aside and it was on 19.01.2022, the Court Bailiff has put the Decree Holders in*

possession of the present Petition Schedule Properties with Police Help irrespective of the obstruction caused by the Objectors. It is also contended by the Applicants that, after the Possession was delivered to the Decree Holders, they have sold the Properties in favor of Barkath Ali, Parashuramappa, Y. Ramappa and Panduranga . Now, the said Persons have subsequently sold the Properties in favor of the Proposed Respondents and they have filed the OS No.94/2025 before the Civil Judge Court and obtained Temporary Injunction against the Objectors. The said contentions of the Objectors are self-explanatory to infer that, on 19.01.2022, the Decree Holders were put in Physical Possession over the Petition Schedule Properties and not only them but subsequent Purchasers also came in to Possession on the basis of Registered Sale Deeds. The Objectors IA No.16 is pending for consideration before this Court to decide their Rights and entitlement and instead of getting their Third Party Rights determined at the earliest, the Objectors are seeking impleadment of Purchasers as Third Parties when they- the Objectors themselves are Third Parties. There was no pleadings about these Applicants filing any Summary Suit under Section 6 of Specific Relief Act though, they have alleged dispossession by the Bailiff on 19.01.2022. There was no Stay Order restraining the Decree Holders in selling the Properties. There was no Appeal or Writ Petition against the Dismissal of the IA No.20 filed for Impleading the earlier Purchasers by name Barkath Ali, Parashuramappa, Y. Ramappa and Panduranga. When the Proposed Respondents are alleged as Purchasers for value and when the Objectors have claimed to have been dispossessed by the Bailiff, the Objectors could not seek the Proposed Respondents as necessary Parties to decide their Third Party Claims as they could not prove anything against the Proposed Respondents until their Rights are

decided under their IA No.16. Therefore, they fail to make out any reasons to implead the Proposed Respondents as necessary Parties in this Proceedings and accordingly, ***the Point No.1 is answered in the Negative.***

11. **POINT NO.2:** For the above discussion, I proceed to pass the following:

ORDER

The IA No.43 of the Objectors is dismissed with Costs of Rs.3000/- for causing unnecessary delay.

Posted finally for cross-examination of RW1 on 18.10.2025.

Sd/-

MADHUSUDHANA D K
Itinerary Senior Civil Judge
Huvinahadagali