

KAVP210001772018



IN THE COURT OF CIVIL JUDGE & J.M.F.C
AT BASAVANA BAGEWADI

Dated this the 14th Day of November, 2025

Present: Sri.Ameet Ghatti, B.A., LLB.,
Civil Judge & JMFC.,
Basavana Bagewadi.

O.S.No.187/2018

PLAINTIFF: Hanamant Tejappa Lamani.

/Vs/

DEFENDANTS: Krishna S/o Devalappa Lamani & Others.

PARTIES IN I.A.No.IV

APPLICANT/PLAINTIFF:

Hanamant S/o Tejappa Lamani,
Age: 51 years, Occ: Service,
R/o Devalapur R.C., Tq: Nidagundi,
Dist: Vijayapura.

(By Sri. D.S.Pawar, Advocate)

// Versus //

OPPONENTS/DEFENDANTS:

Krishna S/o Devalappa Lamani,
Age: 40 years, Occ: Coolie,
R/o Chimmalagi R.C. Part 2,
Tq: Nidagundi and Others.

(By Sri. M.H.Khasnis, Advocate)

i	Provision under which the applications are filed	XIII Rule 10 of CPC
ii	Relief sought for	Praying to summon the Tahsildar to produce Original Will.
iii	The date on which the application is filed	07.02.2024
iv	Number of the applications	IV
v	The date on which the objections are filed by different opponents	22.08.2025
vi	The date on which the order was passed on the said application	14.11.2025
vii	The application filed by	Plaintiff.
viii	Stage of the suit	For Cross-examination of P.W.1.

ORDER ON I.A.NO.IV

1. The Counsel for the plaintiff has filed the application under Order XIII Rule 10 of CPC praying to summon the Tahsildar to produce the Original Will produced in R.T.S.CR.No.25/2017-18 dated 21.02.1994.
2. In support of application, the plaintiff has filed affidavit wherein he has stated that, previously he has given “Varadi” to Special Tahsidlar Office, Nidagundi to enter his name in the record of rights of land bearing Sy.No.577/2 as per Will executed by deceased Lakkabai

W/o Pandappa Lamani in his favour. He has produced the Will before the Tahsildar at the time of filing R.T.S.CR.No.25/2017-18. After disposal of said R.T.S.CR.No.25/2017-18, the Counsel applied for returning of Original Will. But, the Tahsildar, Nidgundi has replied that, the Original Will Deed is not in case file. The Tahsildar, Nidagundi intentionally has given false intimation to cause monetary loss and damage to him. Hence, it is prayed to issue summons to Tahsildar to produce the document. Hence, prays to allow the application.

3. On the other hand, the defendant No.3 filed objections contending that, the application filed by the plaintiff is not maintainable, hence liable to be rejected. Further contending that the Tahsildar intimated that, Original Will is not in the file and under such circumstances again issuing the summons to the said Authority does not arise. Hence, prays to dismiss the application. Further contending that, Order XIII Rule 10 of CPC reveals that the Court may send papers from its own records or from other Courts and hence said provision is not applicable to call for the records from the Taluka Executive Magistrate

and same is not applicable to the case on hand. Hence, prays to reject the application.

4. Heard both the Counsels. I have perused the materials available on record.
5. Upon hearing arguments and materials placed on record, the following points that arise for my consideration:
 1. Whether plaintiff has made out grounds to allow the application ?
 2. What Order ?
6. My findings to the above Points are as follows:

Point No.1 : In the Negative.

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

REASONS

7. **POINT No.1:-** On perusal of the entire records, the plaintiff has filed the suit for declaration to declare that, he is the owner of property. After filing of the suit, the defendants appeared and filed written statement. Issues were framed. The plaintiff led his evidence. When the case is posted for cross of P.W.1, the plaintiff has filed the present application. In the application he has stated that, he has given "Varadi" to the Special Tahsildar, Nidagundi to enter his name as per Will executed by deceased

Lakkabai W/o Pandappa Lamani in his favour. He has produced the Will before the Tahsildar at the time of R.T.S.CR.No.25/2017-18. After disposal of the case, his Counsel applied for returning of document, but he has intimated that said document is not in the file. Hence, he has filed the present application.

8. On the other hand, the defendant No.3 filed objections contending that, the Tahsildar intimated that, Original Will is not in the file and under such circumstances again issuing the summons to the said Authority does not arise. Further contending that, Order XIII Rule 10 of CPC reveals that the Court may send for papers from its own records or from other Courts and hence said provision is not applicable to call for the records from the Taluka Executive Magistrate. Merely mentioning wrong provision is not a ground to reject the application.
9. Further it may be noted that, in the application, he has stated that he has given "Varadi" to the Special Tahsildar to enter his name. At the time of filing R.T.S.CR.No.25/2017-18 he has produced the Will. After disposal of the case, his Counsel applied for returning the

Original Will. But, the Tahsildar has given endorsement that, there is no document in the file. The Counsel for the plaintiff has produced copy of Order.

10. On perusal of Order, the Special Tahsildar deleted the name of Diary Number registered under the Will in respect of Sy.No.577/2 measuring 3-acres 26-guntas. In order to prove this contention, the plaintiff has not produced any document to show that he has produced the Will before the Special Tahsildar. Further, the plaintiff has not produced Diary No.28/2016-17 which is cancelled by the Special Tahsildar. Further already Tahsildar has given endorsement. The Counsel for the plaintiff has not produced the document to show that he has applied for returning the original document. Hence, the contention of the plaintiff cannot be accepted. The plaintiff can very well obtain the document from the Tahsildar. Hence, the plaintiff has not made out grounds to allow the application. Hence, I answer Point No.1 in the Negative.
11. **POINT NO.2:-** In view of the findings on Point No.1, I proceed to pass the following:

ORDER

The application filed by the plaintiff
under Order XIII Rule 10 of CPC is hereby
dismissed.

*(Dictated to the Stenographer, transcribed and computerized by him,
Order corrected and signed by me, then pronounced by me in the Open Court
on this the **14th day of November, 2025**).*

(Ameet Ghatti)
Civil Judge & JMFC,
Basavana Bagewadi

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