

**ORDER BELOW EXH. NO. 205****IN****RCS NO.02/2012**

By way of present application, the defendant is praying for grant of permission to prove partition deed dt. 07-09-1999.

2. It is contended that the plaintiff has filed suit for declaration as well as injunction. It is submitted that the plaintiff has filed one partition deed of dated 07-09-1999 which was executed between the original owners of the suit property. It is contended that as the present partition deed was not in possession of the defendant, he could not file the same during the pendency of the suit and during the course of evidence. It is submitted that in order to decide the real controversy between the parties it is necessary for the defendant to lead evidence and prove the partition deed.

3. On the other hand, the plaintiff filed say and opposed the application. It is submitted that partition stand was taken by the plaintiff and same is proved by the plaintiff. The defendant has denied by same. Hence, pleading is not supported. Hence, application be rejected.

4. Heard, learned advocate for the defendant. None for the plaintiff. No submission is made on behalf of the plaintiff.

5. Perused application and Say. Perused documents filed by the defendant so called partition deed.

6. It is pertinent to note that suit is for declaration and partition. It is the case of the plaintiff that originally suit property was owned by one Vynkatachari

Kodamgulwar and after the death of said Vynkatachari Kodamgulwar his heirs have partition the suit property and thereafter heirs of Vynkatachari Kodamgulwar has sold the properties to different person and the plaintiff has purchase property which originally belongs to the Vynkatachari Kodamgulwar. It is the case of the plaintiff that the defendant has also purchase the property from the heirs of Vynkatachari Kodamgulwar. **It is submitted that between the suit property and house of the defendant there was five feet lane as per partition deed and the defendant has encroached upon the two feet area over said five feet lane.** It is submitted as the defendants have encroached upon two feet present suit is filed for declaration and injunction.

7. The defendant has filed written statement at Exh.18. The defendant has denied the contents of suit. The defendants has denied **five feet common lane**. Moreover, the defendant has denied all the documents filed by the plaintiff. Further, according to the defendant on those documents upon which the plaintiff has relied are false and fabricated in mention in written statement.

8. It is pertinent to note that on the basis of the rival contention, Issue Exh.19 came to be framed. It is pertinent to note here that neither the defendant has admitted the pleading about partition between LRs of Vynkatachari Kodamgulwar nor has admitted the written partition among LRs of Vynkatachari Kodamgulwar. Further, specifically and categorically the defendant has denied the said partition. However, by way of present application, the defendant wants to prove and lead evidence about partition deed dated 07-09-1999 which he not pleaded. It means that the defendant wants to travel beyond its pleading which is not permissible in the eyes of law.

9. It is imperative to note that matter is of 2012. Both parties have closed their evidence and the matter was pending for the argument since 19-07-2025. The

plaintiff has completed his side of argument on 18-02-2026. Further, present application came to be filed on 16-03-2026 in view of application dated 12-03-2026. It is imperative to note that present application is not maintainable as the defendant wants to travel beyond pleadings. Hence, application deserves to be rejected. Further, as the application is filed at belated stage same is liable to be rejected with costs. In result following order.

**ORDER**

1. Application at Exh.205 is rejected with cost of Rs.1500/-to be paid to the plaintiff by the defendant.
2. **Place the matter on 31-03-2026 for argument of the defendant if any.**

Date : 27-03-2026

(S.M.H. Shahid)  
Civil Judge Junior Division Aheri