

MHKO140006932025



**Regular Civil Suit no.165 of 2025**

**Vhalyappa Rudrappa Kamble  
Vs.  
Piyedad Jokishaver Diyos**

**ORDER BELOW EXHIBIT- 5**

[Passed on: 17/02/2026]

1. The plaintiff has filed present suit for injunction restraining the defendant from carrying out construction in the suit property. The plaintiff has filed therein present application below Exh.5 for temporary injunction. The defendant is appeared and filed written statement. Considering the stage of construction, it was stayed till the next date and matter was fixed for hearing on Exh.5. Thereafter, the plaintiff has filed application for appointment of Court commissioner and for measurement of suit property at Exh.26. Said application was allowed vide order dated 13/11/2025 and the Court commissioner was ordered to carryout commission work and file it's report on or before 15/12/2025. But the commission work is not done and the report is not filed. Thereafter, as per application of plaintiff, show cause notice was issued against the commissioner. In reply to the said notice, the concern Court commissioner submitted it's report and stated that they are going to carryout measurement once they get the date from their E-measurement Version-2.
2. However, the learned advocate for defendant raised strong objection and submitted to pass necessary order below Exh.5. The concern clerk from the department of land record appeared before the Court and submitted that the measurement work will be done immediately once they get the date from their online mode. The learned advocate for plaintiff also submitted that, they received date of measurement as 12/03/2026.

3. So, it is seen that as per order of this Court commission work is not completed within given period. The learned advocate for defendant is pressing for deciding the application below Exh.5. However, on perusal of the pleadings of both side it is seen that, there is dispute regarding encroachment. The fact in issue is that, whether the defendant has encroached in the suit property and carrying out construction therein. For deciding the same and to bring the factual position on record, Court commissioner is appointed. However, the construction is at it's base level. It is not completed. The issue as to encroachment is involved. However, it is seen that the commission work is fixed on 12/03/2026. So, in order to avoid the further complications and to avoid changing the nature of suit property by way of construction, it would be proper to wait for the commission report till 12/03/2026. It would help in deciding the issue involved. As per submission of learned advocate for both side, if the commission work is done then, there is possibility of amicable settlement between the parties. In such situation, I am of the view that it would be proper to stay the construction till 16/03/2026.

**ORDER**

1. The disputed construction is stayed **till 16/03/2026**.
2. Till then, the application below Exh.5 will remain pending.

Date: 17/02/2026

**[Waman D. Jadhav]**  
Joint Civil Judge Junior Division, Chandgad.  
[Judge Code- MH03143]

