

**IN THE HIGH COURT OF KARNATAKA, BANGALORE**

**DATED THIS THE 13<sup>TH</sup> DAY OF JULY, 2007**

**BEFORE**

**THE HON'BLE MR. JUSTICE RAM MOHAN REDDY**

**WRIT PETITION NO.8907 OF 2007 (GM-CPC)**

**BETWEEN**

1. SMT. CHINNAMMA,  
W/O N R MONAPPA GOWDA,  
AGED ABOUT 47 YEARS,  
R/OF KAYARA HOUSE,  
MARKANJA VILLAGE,  
SULLIA TALUK, D.K.

2. DUGGAPPA GOWDA,  
S/O NANJAPPA,  
AGED ABOUT 62 YEARS,  
R/OF BALLADKA HOUSE,  
UBARDKA MITHOOR VILLAGE,  
SULLIA TALUK, D.K.

... PETITIONERS

(BY SRI D KRISHNA MOORTHY, ADV.,)

**AND**

SMT. USHAKUMARI B,  
D/O CHINNAPPA GOWDA,  
AGED ABOUT 27 YEARS,  
R/OF BALKADY HOUSE,  
MARKANJA VILLAGE,  
SULLIA TALUK, D.K.

... RESPONDENT

**THIS W.P. IS FILED UNDER ARTICLES 226 & 227 OF  
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE  
ORDER VIDE ANNEXURE E AND ETC.,**



THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY THE COURT MADE THE FOLLOWING:

**ORDER**

The defendants in O.S.No.92/2005 on the file of the Civil Judge (Jr.Dn) & JMFC, Sullia DK, aggrieved by the rejection of I.A.No.4 filed under Order 26 Rule 9 CPC by order dated 19-04-2007, have presented this petition.

2. In a suit for permanent injunction, petitioners arraigned as defendants filed their written statement denying the suit claim. After the conclusion of the trial, petitioners filed I.A.No.4 under Order 26 Rule 9 CPC to appoint a Court Commissioner to conduct local inspection and to file a report as to the existence of the coconut trees, rubber trees and agricultural improvements in the suit property. The application was opposed by the plaintiff by filing Statement of objections. The Trial Court, in the premise of the pleadings of the parties and more particularly having regard to the fact that the suit was one for bare injunction and the parties had led in their evidence, held that there was no necessity to elucidate matters in respect of material was



available on record and accordingly rejected the application by the order impugned.

3. An examination of the order impugned discloses that the Court below was fully justified in rejecting the application, more appropriately in the light of the fact that there was enough and more material placed by the parties in the evidence both oral and documentary in order to establish there respective claims. The court below did not find any necessity to elucidate details which were forthcoming from the materials on record. In my opinion, no exception can be taken to the findings and conclusions arrived at by the Court below. The Writ petition is without merit and is accordingly rejected.

Sd/-  
Judge

KS