

KABC0A0044202022



IN THE COURT OF THE XXVIII ADDITIONAL CITY CIVIL
AND SESSIONS JUDGE (CCH-29) MAYOHALL, BENGALURU

Dated this the 7th day of January, 2026.

PRESENT:

Sri BALAPPA APPANNA JARAGU, B.Sc., LL.M.,
XXVIII Additional City Civil and Sessions Judge,
Bengaluru.

FDP No.25023/2022

PETITIONER : Smt. T.R. Vembu,
Aged about 74 years,
W/o. S. Subramanian,
Residing at No.62/1, Ranga Rao
Road, Shankarapuram,
Basavanagudi, Bangalore-560 004.

(By Sri M. Adhinarayana, Advocate)

-VERSUS-

RESPONDENTS: 1. Smt. Kalyani Srinivasan,
Aged about 74 years,
W/o. Late T.R. Srinivasan.

**(As per court order
dated 07.03.2024 amended)**

2. S.R. Chander,
S/o. Late T.R. Srinivasan,
Aged about 54 years.
3. S. Ravikumar,
S/o. Late T.R. Srinivasan,
Aged about 50 years.

Cont'd..

All are residing at No.62,
Ranga Rao Road,
Shankarapuram,
Basavanagudi, Bangalore-560 004.

(By Sri K.M. Thimaiah, Advocates)

ORDERS

This petition has been filed by petitioner/plaintiff under Order XX Rule 18 of CPC requesting the court to draw final decree based on preliminary decree passed in O.S.No.25107/ 2014 dated 13.11.2019.

2. It is stated in petition that, petitioner/plaintiff filed suit in O.S.No.25107/2014 against defendants/respondents for partition and separate possession. Said suit was decreed by its judgment and decree dated 13.11.2019 declaring that, plaintiff/petitioner is entitled for half share in suit property by metes and bounds. In spite of decree being passed and direction was issued respondents have not effected partition in suit property and given half share in suit property to

plaintiff by metes and bounds. On these grounds, it is requested to draw final decree.

3. In pursuance of notice issued by court, respondents No.1 to 3 have appeared before court and filed their statement of objection by contending that, petition filed by petitioner is not maintainable and liable to be dismissed. The husband of respondent No.1 and father of respondents No.2 and 3 are residing in suit property and they are aged about 57 years. Suit property which is building constructed by T.R. Srinivasan during his lifetime out of his own income. These respondents got sentimental attachment with suit property. In the event of property is to be divide it would be more appropriate to devoid schedule property into two parts allotting Western portion with existing building to these respondents measuring 30X50 feet and similarly Eastern portion measuring 30X50 feet be allotted to petitioner. On these grounds, it is requested to disposal of present petition allotting

share of respondents on Western portion of property.

4. Heard on both sides, perused records placed before the court.

5.The following points arise for my consideration:-

1. Whether petitioner has made out sufficient grounds to accept court commissioner report and draw final decree?

2. What Order?

6. My answer to the above points are as follows:-

POINT No.1 - In the affirmative;

POINT No.2 - As per final order,

for the following –

REASONS

7. **POINT NO.1** :- It is to be noted here that, preliminary decree passed in O.S.No.25107/2014. Allotting half share to the plaintiff/petitioner.

8. This Court by its order dated 11.10.2023 has appointed Sri B.A. Ravindra Singh, Advocate as Court commissioner to carry out commission work so as to ascertain feasibility of division of suit schedule property as per shares of parties declared in preliminary decree. The court commissioner has filed his report on 16.06.2025 for having carried out commission work along with sketch and mahazar.

9. After filing commissioner report, the counsel for petitioner submitted he has no objection to commission report. The respondents have also not filed objection to commissioner report. In their statement of objections, the respondents have contended that, in the event of court were to allot half of the share in schedule property, Western side of schedule property consisting of building ground floor and first floor kindly be allotted to the share of respondent as said allotment feasible in the interest of both parties.

10. It is worth to note here that, court commissioner has carried out commissioner work and filed report by clearly mentioning that, site is measuring 60X50 feet. It is further stated in commissioner report and sketch that, house is constructed leaving vacant space of 5 feet 10 inches on Western side and 20 feet 10 inches on Eastern side. It is further stated, it is difficult to divide suit property into two equal parts as there is significantly larger constructed area on Western side when compared with Eastern side. It is further stated age of the building is already around 75 years. More feasible solution is to demolish building and to divide suit schedule property into two equal parts each of which as a width of 30 feet and length of 50 feet.

11. As per above facts, the court commissioner filed report with sketch about feasibility of division of property. No doubt it is mentioned in report and sketch that, there exist first floor and ground floor

building on Western side of entire extent of property but at the same time the court commissioner has opined building is already around 75 years and same has to be demolished. Taking into note of these facts, it is not feasible to allot ground floor to one party and first floor to other party as per share declared in preliminary decree.

12. As already discussed, the court commissioner has stated, building on property has to be demolished so as to divide property as per share declared in preliminary decree. Respondents having aware that, building on property is old one and same has to be demolished, requested the court to allot Western half portion of entire property to them. Such request by respondents is not seriously denied by petitioner or counsel for petitioner.

13. In view of above mentioned facts, it is feasible to allot area with building measuring to an extent of 30X 50 feet shown as A, B, C and D has been allotted as share of respondents. Likewise,

area to an extent of 30X50 feet shown as C, D, E and F has been allotted as share of petitioner.

Hence I answer point No.1 in the affirmative.

14. **Point No:2**:- On above made discussion on point No.1, I proceeded to pass following:

O R D E R

The petition filed by the petitioner under Order XX Rule 18 of CPC is hereby allowed.

The commissioner report filed on 16.06.2025 along with sketch and mahazar is hereby accepted and it shall form part and parcel of final decree.

No order as to costs.

Draw final decree accordingly.

(Dictated to the Stenographer directly on computer, typed & computerized by her, corrected and signed by me and then pronounced in the open Court on this the 7th day of **January, 2026.**)

(BALAPPA APPANNA JARAGU)
XXVIII Additional City Civil and
Sessions Judge, Mayohall, Bengaluru.