

KABG040003332024



19.02.2025

FDP No.2/2024

**ORDERS ON I.A.NO.I
FILED U/SEC.54 OF C.P.C.**

The petitioners have filed I.A.No.I U/Sec. 54 of C.P.C., to appoint A.D.L.R. Taluka Surveyor as Court commissioner for division of suit schedule property as per preliminary decree.

2. In the affidavit annexed to the application, it is stated that in the original suit for partition and separate possession, decree has been passed and now the share of the plaintiffs/petitioners have to be allotted, hence the application has to be allowed in the interest of justice.

3. Per contra, the respondents have not filed any objection to I.A.No.I.

4. Perused the application.

5. Heard arguments of learned counsel for petitioners. The counsel for respondents did not address arguments despite sufficient opportunity being given.

6. The following points arise for my consideration.

i) Whether the petitioners have made out sufficient grounds to allow I.A.No.I filed U/Sec.54 of C.P.C. ?

ii) What order ?

7. My findings to the above points are as follows :

Point No.1 : In the Affirmative.

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

REASONS

8. **Point No.1 :** The petitioners herein are the plaintiffs in O.S.No.260/2021 wherein they were held entitled to 1/6th share each in the suit schedule property. Now the plaintiffs who are present petitioners have filed this petition against the defendants/respondents and the present application is filed seeking

appointment of Court commissioner for the purpose of allotment of share of plaintiffs/petitioners as per the decree.

9. Hence, in view of the preliminary decree passed in O.S.No.260/2021 wherein it is held that the plaintiffs/petitioners herein are entitled to 1/6th share each in suit property i.e., agricultural land bearing R.S.No.634/2B/5 measuring 2 Acres 36 Guntas 8 Annas, situated at Macche Village, Belagavi and agricultural land bearing R.S.No.596 measuring 37 Guntas situated at Yallur, Belagavi and agricultural land bearing R.S. No.634/2B/2 measuring 2 Acres 29 Guntas 8 Annas situated at Macche Village, Belagavi. It is very much necessary to appoint Court commissioner calling for suggestion with respect to the scheme of partition. Hence, I answer **Point No.1 in the Affirmative.**

10. Point No.2 : For the aforesaid reasons, I proceed to pass the following :

ORDER

I.A.No.I filed by the petitioners U/Sec.54 of C.P.C. is hereby allowed.

The surveyor attached to A.D.L.R. Office, Belagavi is hereby appointed as Court commissioner and he is requested to suggest the scheme of partition in accordance with the terms of preliminary decree dated 22.05.2023 and as per Judgment dated 20.04.2023 wherein it is held that the petitioners herein are entitled to 1/6th share in the suit schedule property, respondents No.1 to 4 are entitled to 1/6th share each in suit schedule property.

The Court commissioner shall submit his report along with hand sketch and map disclosing measurement of suit schedule property and suggesting the scheme of partition as per preliminary decree.

FDP No.2/2024

The commissioner fee is fixed at Rs.2,000/- to be borne by the petitioners.

The Court commissioner fee is to be deposited in C.C.D. within a week from the date of this order.

Issue commissioner warrant.

Returnable by 19.03.2025.

**Prl. Civil Judge and J.M.F.C,
Belagavi.**