

KABG040015382014



ORDERS ON COURT COMMISSIONER'S REPORT

The petitioner was defendant No.5(c) in O.S.No.202/1990 and respondent No.1 to 3 were plaintiffs and they had filed the said suit for the relief of partition and separate possession against the present petitioner and other respondents. The suit was contested and the same came to be decreed on 19/09/1997 wherein, the plaintiffs were granted 1/12 share in suit schedule properties. After decree of the said suit, final decree proceedings bearing FDP No.16/2014 was instituted and in this proceedings, Court Commissioner was appointed to effect partition of suit schedule A and B properties. After appointment of Court Commissioner, he submitted his report on 11/10/2019.

(2) After receipt of the Court Commissioner's report, petitioner has filed objections.

(3) Petitioner has contended that as per the order of this court, the Court Commissioner had issued notices for the commission work to all the parties of the petition but he did not conduct the commission work due to heavy rain and he stated that the suit properties are filled with rain water and it is not possible to conduct the commission work and after two or three months he will conduct the commission work when rain water gets drain. In the month of June-2019 there was heavy rain

and the Government has declared the Belagavi district as flood hit district but Court Commissioner instead of submitting the truth has filed his baseless and false report stating that petitioner is not interested for the commission work and insisted for survey of only one property. Hence, prayed to set aside the commissioner report.

(4) Perused the Court Commissioner's report and other materials placed on record.

(5) Learned counsel for the petitioner in his arguments has clearly submitted that the ADLR, Belagavi was appointed as the Court Commissioner but he delegated his powers of commission work to a surveyor and the said surveyor submitted his false report without carrying out commission work. On perusal of Commissioner's report, it is clear that the petitioner appeared before the court commissioner and sought for surveying of only one survey number i.e. R.S. No. 188/8 and as such the commission work was not completed. It is clear that in the year 2019 there was heavy rain and further report of the Court Commissioner depicts that the petitioner consented for surveying R.S.No.188/8 for which the petitioner has affixed his left thumb impression. Now the petitioner intends to get surveyed all the suit properties and filed his objections to the Commissioner report stating that the report is false and misleading. Since there is no division and measurement of properties, this court feels it proper to issue Commissioner warrant afresh to carry out the commission work. Hence I proceed to pass the following order;

ORDER

ADLR, Belagavi is hereby appointed
as the court commissioner.

Issue Commissioner warrant if PF is
paid. Await Commissioner's Report.

Call on: 23.06.2022

Sd/-
**II Addl. Civil Judge & JMFC
Belagavi.**