

27-04-2024:

ORDER ON IA No. XIII

IA No.XIII is filed by respondent Nos.3(1) to 3(3) and seeking to allot 1/ 6th share to them as per judgment of Vineetha Sharma Vs. Rakesh Sharma.

2. In the accompanying affidavits they have sworn to the fact that they are entitled for 1/ 6th share in the suit properteis.

3. The petitioners have not filed objections to the IA. They have endorsed that they have no objections to allot the shares.

4. Heard both sides and perused documents on record.

5. The following points arise for my consideration;

“ Whether the applicants have made sufficient grounds to allot share to them ? If so, what order ?”

6. My finding to the above point is in the

Affirmative for the following;

REASONS

7. Admittedly OS No. 20/2003 was filed by Smt Savakka and others seeking the relief of partition and separate possession. The judgment was delivered on 31.10.2006 and as per the said judgment plaintiff Nos.1 and 2 and 3 to 7 were held to be entitled for 1/24th share each.

8. On perusal of the certified copy of the judgment passed in this case it is apparent that the court has observed that the suit schedule properties are ancestral joint family properties. While carving share this court has granted notional share to the parties.

9. It is apparent that the trial court held that the sons and daughters of propositus are entitled for shares.

10. As per the genealogy apparent from the judgment page 5 it is apparent that the propositus of the family was Basappa, he had a wife Tippavva and they had three sons and three daughters, Neelawwa, Rudrappa, Savakka, Nagappa, Irappa and Kashawwa. Thus all the legal heirs of Basappa

are entitled for 1/ 6th share in the suit properties each. Neelawwa, Rudrappa, Savakka, Nagappa, Irappa and Kashawwa are each entitled for 1/ 6th shares as per modified preliminary decree.

11. it is apparent that the propositus of the family was Basappa, he had a wife Tippavva and they had three sons and three daughters, Neelawwa Rudrappa, Savakka, Nagappa, Irappa and Kashavva. Thus these children are all entitled for 1/ 6th shares each in the suit properties. Already IA No.6 and 8 has been allowed.

12. Applicants of IA no 10 are heirs of Irappa and they are entitled for share of Irappa Applicants in IA no XIII are heirs of respondent no 3 Sri Irappa and thus are entitled for share of Rudrappa. Thus, applicants are entitled for 1/ 6th shares. Hence in view of the above discussions I answer point under consideration in the affirmative and I proceed to pass the following;

ORDER

The I.A No.XIII filed by the applicants ie respondent no 3 (1) to 3(3) U/s 151 of CPC is hereby allowed.

The applicants/ respondent No.3(1) to 3 (3)

are are held to be entitled for $1/6^{\text{th}}$ share in the suit properties by metes and bounds.

Draw a preliminary decree accordingly.

Senior Civil Judge, Bailhongal