



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE, GOKAK.**

BEFORE: Sri.Umesh S. Atnure,
B.Com.LL.B.(Spl)

F.D.P. No.68/2024

DATED THIS 24th DAY OF SEPTEMBER-2025

Plaintiff: 1. Veerayya @ Irayya S/o Basalingayya @
Shrikant,
Age: 64 years, Occ: Pensioner,
R/o: H.No.2767, Garadi Galli Gokak,
Tq: Gokak, Dist: Belagavi.

V/s

Defendants: 1. Shivanand S/o Basalingayya @ Shrikant
Muchandi Hiremath,
Age: 58 years, Occ: Pvt. Job,
R/o: Somawar Peth Gokak, Tq: Gokak.

2. Smt. Akkamahadevi W/o Vishwanathayya BH,
Age: 65 years, Occ: Household,
R/o: 3rd Cross Vivekanand Nagar Gokak,
Tq: Gokak.

3. Smt. Minaxi W/o Basavaraj Kallimath,
Age: 59 years, Occ: Household,
R/o: Munnolli, Tq: Savadatti.

4. Smt. Vijaylaxmi W/o Gourishankar Swami,
Age: 51 years, Occ: Household,
R/o: Halaga, Tq & Dist: Belagavi.

5. Smt. Shantavva W/o Shrikant @
Basalingayya Muchandi Hiremath,
Age: 82 years, Occ: Household,
R/o: #3969 Guruwar Peth Gokak,
Tq: Gokak.

PARTIES TO I.A.No.I U/o XXVI RULE 9 OF CPC

Applicant: 1. Veerayya @ Irayya S/o Basalingayya @
Shrikant Muchandi Hiremath
.....Applicant/Petitioner
Vs.

Opponents: 1. Shivanand S/o Basalingayya @ Shrikant
Muchandi Hiremath and others
.....Opponents/Respondents

**ORDER ON I.A.No.I FILED U/o XXVI RULE 9 R/W SEC
151 OF CPC.**

The petitioner filed this present application U/o XXVI Rule 9 R/W Section 151 of CPC, praying to appoint the City Surveyor or any of his subordinate officer as a court commissioner for effecting the partition in respect of CTS.No.2454/B which is measuring 29.54 Sq.Mtrs shop and CTS.No.2767/A measuring 41.81 Sq,Mtrs House and Shop situated at Gokak..

2. In the accompanying affidavit, the petitioner contended that he has filed a suit for partition and separate possession

against the defendants in O.S.No.93/2022 and the said suit was came to be decreed and preliminary decree passed on 19.08.2024. The property involved in this suit are shop, house and shop. In order to curved out his 1/6th share in the suit property it is just a necessary to appoint the City Surveyor or any of his Subordinate Officer as a court commissioner for making the division of suit property. As such, he prayed to allow the application.

3. The respondents are not filed any objections to this application but respondent No.1 and 5 submitted that they are not having any objection to allot their share to respondent No.1. Further the respondent No.3 and 4 appeared through their counsel they have filed memo along with an affidavit of respondent No.3 stating that as per the preliminary decree they are allotted 1/6th share and her 1/6th share she has relinquished infavour of respondent No.1 as such, they prayed to allot their share infavour of respondent No.1. So also the respondent No.2 and 5 were submitted that they have relinquished their share infavour of respondent No.1.

4. Heard both side perused the application and material available on record.
5. The following points arise for my consideration are as follows;

//POINTS //

1. Whether the petitioner has made out grounds to appoint the City Surveyor or any of his Subordinate Officer as a court commissioner for demarcation for their share in the suit schedule property?
 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 No1: It is clear from the preliminary decree that the present petitioner and respondent No.1 to 5 were allotted $1/6^{\text{th}}$ share each in the suit schedule properties. Now the respondent No.2 to 6 were relinquished their share infavour of respondent No.1. Hence, the share of the respondent No.1 will comes to $5/6^{\text{th}}$ share and petitioner share is $1/6^{\text{th}}$ share.
8. In view of the relinquishment of shares by respondent No.2 to

6 infavour of respondent No.1 the respondent No.1 is entitled for 5/6th share in the suit schedule property and petitioner is entitled for 1/6th share in the suit schedule property. The suit properties are CTS properties and in order to demarcate the shares of the respective parties it is just a necessary to appoint the City Surveyor or any of his Subordinate Officer as a court commissioner for effecting the division of the shares of the respective parties. Hence, I am of the consider view that the petitioner has made out grounds to appoint the City Surveyor or any of his Subordinate Officer for effecting the division of the suit properties as per the preliminary decree passed in O.S.No.93/2022. Hence, **I answered the point No.1 in the Affirmative.**

9. **Point No.2** :- For the above stated reasons, I proceed to pass the following...

ORDER

The application filed by the petitioner U/o. XXVI Rule 9 R/W Section 151 of CPC filed at I.A.No.I is hereby allowed.

The City Surveyor or any of his subordinate officer is appointed as court commissioner for demarcation of the shares of the respective

parties as per the preliminary decree passed in O.S.No.93/2022.

The court commissioner fees is fixed at Rs.2000/-.

The court commissioner is hereby directed to issue notices to both the parties by R.P.A.D and produced the acknowledgment cards along with his report. Further the court commissioner is directed to prepare the “Watap Takhta” and stayed the valuation of the shares of respective parties and submit his detailed report.

Call on for compliance by 18.10.2025.

(Dictated to the Stenographer, transcribed by him on computer, revised, corrected and then pronounced by me in the open Court on this the 24th day of September. 2025.)

Sd/-

(Umesh S. Atnure)

Prl. Senior Civil Judge Gokak.