

**IN THE COURT OF THE CIVIL JUDGE & JMFC.,
AT SANDUR.**

Present : Sri. Devaraddy B.A., LL.B, LL.M.
Civil Judge & JMFC., Sandur.

Dated this the 18th day of April, 2023

F.D.P. No. 1/2020

Petitioners : Shruthi and another.

V/s.

Respondents : Yariyappa and Others.

I A No.II

**Applicants/
Petitioners** : Shruthi and another.

(By Sri. T.M.M. Advocate)

V/s

**Opponents /
Respondents** : Yariyappa and Others.

(By Sri. V.G.K. Advocate)

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ORDERS ON I.A. No.II

The applicant/petitioner No.1 has filed this application U/o 26 Rule 9 R/w Sec. 151 of C.P.C. and

prays to appoint the Taluk Surveyor as court commissioner to survey the suit schedule properties as per the decree and submit the report.

2. The said application filed along with accompanying affidavit and in the affidavit it is stated that, she is the decree holder in the present case and petitioner herein as such she is well acquainted with the facts of the case. Further stated that the petition schedule mentioned properties are to be surveyed by meets and bounds according to the judgment and decree of this court. Further stated that it is necessary to appoint the Taluka Surveyor to conduct the survey with regard to suit schedule properties and submit the report. Further stated that if the application is allowed no injustice will be caused other side, on the other hand if the application is not allowed then they will be put great hardship and injustice. Hence, prays to allow the application.

3. The learned counsel for respondent submits no

objection on this application.

4. Heard.

5. The following points would arise for consideration:

1. Whether the I.A. No.II filed by applicant/ petitioner No.1 under order 26 Rule 9 R/w Sec. 151 of CPC is deserved to be allowed?

2. What order?

6. Based on the contents of petition and affidavit of this application , the aforementioned points are answered as under:

Point No.1 : In the **Affirmative.**

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

REASONS

Point No.1 :

7. The petitioners have filed this final decree

proceedings with regard to divide the suit schedule properties as per the decree passed by this court in O.S. No.104/2016. On perusal of contents of the petition it reveals that, the petitioners have filed suit against the respondents / defendants for the relief of partition and separate possession in respect of the suit schedule properties in O.S. No.104/2016. The said suit was decreed on 03.03.2018 by allotting 1/6th share each to the petitioners and respondent No.4. Thereafter, the petitioners filed this petition to effect the partition as per decree passed in the above case.

8. Now, the petitioners also filed this application to appoint the Taluk Surveyor, Sandur as court commissioner to effect the partition as per preliminary decree passed in the above suit. As already stated above that, the learned counsel for respondent submits no objection on the present application.

9. On perusal of contents of petition and affidavit of the present application and also materials available on the hand, it reveals that it is just and necessary to appoint court commissioner to effect the partition as per preliminary decree passed in O.S. No.104/2016 on 03.03.2018 by this court.

10. In view of the above discussion and circumstances, this court has come to conclusion that the application filed by the petitioners/applicant is deserved to be allowed. Hence, the Point No.1 is answered in the **Affirmative**.

Point No.2 :

11. For the reasons discussed above, proceed to pass the following;

ORDER

IA No.II filed by the petitioner No.1 /
applicant U/O XXVI Rule 9 R/w Sec.
151 of CPC, is hereby allowed.

Further, Taluk Surveyor, Tahasheel Office, Sandur is appointed as court commissioner to effect the partition as per preliminary decree with regard to suit schedule properties passed in O.S. No.104/2016 dated 03.03.2018.

The petitioner is hereby directed to pay the commissioner fee of Rs.1,000/-.

(Dictated to the stenographer directly on the computer, computerized by him corrected and then pronounced by me in the open court on this **18th day of April 2024.**)

(Devaraddy)

Civil Judge and J.M.F.C.,
Sandur.