

**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC AT
HIRIYUR**

Dated this the 16th day of August 2022

Present: SRI MOHAMMED MOINUDDIN, B.A., LL.B., (Spl.)

Senior Civil Judge and JMFC, Hiriya

FDP. No.6/2019

PARTIES TO I.A.NO.2

Applicants : Smt. D. Jambavathi and others

Vs.

Opponents: Smt. Thippakka and others

ORDERS ON I.A.NO.2

The petitioners have filed this application U/O.XXVI R.13 of CPC to appoint Taluka surveyor as Court commissioner to demarcate the shares of the parties as per the preliminary decree passed in O.S.98/2006. Hence they have prayed to allow the application.

2. The respondents have appeared through advocate and filed objections. Whereby they have submitted that by ignoring their rights over the suit properties said preliminary decree has passed in O.S.98/2006. As such the application is not maintainable and prayed for its dismissal with cost.

3. I have heard from both sided and perused the available materials on record.

4. By virtue of orders passed on 04.06.2022 and 10.06.2022 this court has amended the preliminary decree as regards the quantum of shares as per the request of both the parties. Accordingly the amended preliminary decree passed whereby it has been declared that, the respondent No.1 to 4 together entitled for 1/5th share, the respondent No.5 to 7 is entitled for 1/5th share each and legal heirs of respondent No.8 together entitled for 1/5th share and the respondent No.9 also is entitled for 1/5th share.

5. It is relevant to note here that already the shares of the petitioners to the extent of 1/5th have been declared. In view of subsequent development the parties are entitled for respective shares in schedule properties.

6. There are 5 landed properties appended to the petition schedule and the ADLR Hiriyyur is a competent person to demarcate the shares of the parties. Therefore to give effective meaning to the preliminary decree passed by this court it is just and necessary to allow the application. Hence for the following:

ORDER

The I.A.No.2 filed by the petitioner
U/O.XXVI R. 13 of CPC is allowed.

Thereby the ADLR of Hiriya is appointed as the court commissioner to visit the petition schedule properties, demarcate the shares of the parties as per the preliminary decree passed in O.S.98/2006 on the file of this Court to prepare detail sketches with report and submit the same. The commissioner fee is fixed at Rs.2,000/-.

For steps by 20.08.2022.

[Dictated to the bench typist, the same was typed by her, the transcript thereof is revised and corrected by me and then pronounced in the open Court on this 16th day of August 2022]

**Senior Civil Judge & JMFC.,
Hiriya.**