

**IN THE COURT OF PRL. SENIOR CIVIL JUDGE &
CJM, CHIKKAMAGALURU**

Present: **S.N. Hegde,**
B.A., LL.M.,
Prl. Sr. Civil Judge and CJM,
Chikkamagaluru.

FDP No.6/2019

Dated this the 5th day of December 2019

Petitioner: Smt.Shwetha W/o.Shive Gowda,
Aged about 31 years, Agriculturist,
C/o. Girish, R/o.Gandhinagara,
Chikkamagaluru.

(By Sri K.S.Shanthiprakash, Adv.)

V/s

Respondents: 1. Smt.Savithramma W/o. Late
Chandre Gowda, Aged about 64
years, Agriculturist, R/o.Hosabylu,
Havalli Village, Aldur Hobli,
Chikkamagaluru Taluk.

2. Smt.Sunitha W/o.Padmesh,
Aged about 30 years, Agriculturist,
R/o. Haranahalli Village, Anoor
Post, Vastare Hobli,
Chikkamagaluru.

(By Sri K.B. Devaraj, Advocate)

ORDER

The petitioner has filed this petition against the respondents U/Sec.54 R/W Order 21 Rule 35 CPC seeking to draw final decree by allotting the share of the petitioner and respondents No.1 and 2 as per the preliminary decree after receiving the report from the revenue authorities in the ends of justice.

2. In the petition it is stated that, she had filed suit in OS.No.91/2017 and that suit is decreed and her share is defined. As per preliminary decree, she is having 4/9th share in the plaint schedule properties. Hence, she prayed to draw final decree.

3. After filing of this petition, notice was issued to the respondents and they have appeared before this court through their counsel. They have not filed any objection. Then ADLR Chikkamagaluru is appointed as a court commissioner to demarcate the properties as per preliminary decree and to submit the proposals for division of the properties. Accordingly

the court commissioner went to the spot, measured the properties and submitted proposal with sketch. Then the case was posted for objections to commissioner report. But the respondents have not filed any objection. Then the case was posted for arguments.

4. Heard the arguments and perused the records.

5. Now the only point that arises for my consideration is as follows:

“Whether the properties can be divided in terms of the proposal submitted by the court commissioner?”

6. On the basis of the materials available on record, my findings on the above point is in the “Affirmative” for the following:

REASONS

7. I have gone through the entire materials available on record. This petitioner had filed a suit in OS.No.91/2017 for partition and separate possession. That suit was decreed and it

was declared that this petitioner and respondents No.2 are having $\frac{4}{9}$ th share each and the respondent No.1 is having $\frac{1}{9}$ th share in each of the plaint schedule properties. There is no material on record to show that, the respondents have filed any appeal. They have not filed any objection to the main petition as well as application for appointment of commissioner. Even they have not questioned the report of the court commissioner. On going through the report of the court commissioner and the sketch annexed to it, it reveals that the commissioner has properly measured the properties and submitted a proposal which can be accepted by this court. Hence, above point is answered in the affirmative and following order is passed:

ORDER

Commissioner report is hereby accepted.

Now the properties are divided in terms of the proposal submitted by the court commissioner.

Draw final decree in terms of preliminary decree and the report of the court commissioner.

Report of the court commissioner will be a part and parcel of the final decree.

No order as to costs.

(Dictated to the Stenographer, transcribed by him, the transcript, corrected and then pronounced by me in the open Court on this the 5th day of December 2019)

Sd/-

(S. N. Hegde)
Prl.Sr.Civil Judge & CJM
Chikkamagaluru.

**cpd*