

ORDER ON COMMISSIONER REPORT

The above petition has been filed by the petitioner by seeking to issuance of direction to the Deputy Commissioner, Chikkamagaluru with respect to the partition of the suit schedule properties and to hand over the petitioner's share to her separate possession. On vide order dated 04.10.2021 this Court has issued warrant against ADLR Mudigere Taluk by directing to hold local inspection of the suit schedule properties and to propose best scheme of partition in terms of preliminary decree and along with the commissioner warrant, petition copy and instructions issued by both the parties were also attached.

2. In complying the said order, ADLR Mudigere submitted their report on 06.12.2022. After receiving commissioner report, both the parties has submits their objection to said report and on considering the objection and the report submitted by the commissioner this Court has rejected the said commissioner report and directed to file the fresh commissioner report in the above petition.

3. In pursuant to the same on 10.07.2023, the ADLR Mudigere has submitted a fresh commissioner report with respect to the schedule properties in the above petition. After receiving the

commissioner report both the parties have provide an opportunity to file their objection to the commissioner report. The petitioner and respondent has submitted their objection by stating that the petitioner and respondent have filed joint memo in the above petition by stating that they have agreed to share the suit schedule properties as per their possession, but the court commissioner has not filed report with respect to the terms and condition mentioned in the joint memo.

4. Heard both the parties and perused the materials placed on record.

5. The present petition has been filed seeking execution of decree passed in OS No.31/2015. In the present petition the petitioner and the respondent has filed joint memo by stating that they have agreed between themselves in order to have share as per their possession over the suit schedule properties. On the basis of said joint memo the court commissioner i.e., ADLR Mudigere has been appointed in order to conduct the local inspection and to proposed the best scheme of partition in terms of preliminary decree.

6. By complying the order passed by this Court the ADLR Mudigere has submitted the report on 06.12.2022 by stating that as

per the joint memo the petitioner and the respondent are not in possession, during the demarcation they have informed that they are not aware about the persons who are in the possession over the suit schedule properties. On perusal of the objection and the report of the commissioner this Court has rejected the said report and issued direction to submit fresh commissioner report. In pursuant to the same on 10.07.2023 the ADLR Mudigere has submitted report for the second time wherein it is mentioned that the petitioner and respondent are not in possession over the suit schedule properties and the same information has been given to them by the petitioner and the respondent themselves.

7. On considering the objection and the commissioner report this Court is of opinion that no grounds made out in order to reject the commissioner report and to issue fresh warrant against the commissioner in order to furnish the fresh commissioner report. Hence this Court proceeds to pass the following;

ORDER

Commissioner report is hereby accepted.

For arguments on merits.

Call on : 22.09.2025.

Sd/-
Addl. Civil Judge & JMFC.,
Mudigere.