

ORDERS ON IA NO. 2

This application is filed by the respondent No.1 to 4 when the matter stood for passing orders on Commissioner's report. The present application is filed under Order 9 rule 7 r/w Section 151 of CPC, seeking to set aside the ex-parte order passed against the respondent No.1 to 4.

2. In support of the present application, the respondent No.4 for himself and on behalf of other respondents, has filed an affidavit wherein submitted that due to unavoidable circumstances, they could not appoint an advocate and to give instruction to represent them in this case and therefore, they could not appear before the court. On the above grounds, it is sought for allowing the application.

3. Learned counsel for petitioners has filed the statement of objections to the present application contending that the present application is false and not maintainable. No reasonable grounds are put forth in support of the present application and thus sought for its rejection.

4. Having heard the arguments addressed by both side, this Court has perused the entire materials on record.

5. Now the following points do arise for consideration of present application:

- 1)** Whether the respondents have made out sufficient grounds to set aside ex-parte order passed against them?

2) What order?

6. The answers of this Court on the above points are as follows:

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

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

REASONS

7. Point No.1: The above petition is registered for drawing up of final decree of partition pursuant to the preliminary decree in O.S. No. 103/2021 on the file of this Court. The respondents have maintained the above application seeking to recall the order placing them as ex-parte. Herein the present case, commissioner's report proposing the scheme of partition is already received. Though the respondents are placed ex-parte, they have filed the present application seeking to recall the said order. If the nature of present proceedings is considered, the say of respondents on the matter would be very much necessary for just and final disposal of the matter. If the respondents are denied with an opportunity to say in the case, it not only cause injustice to them but also lead for multiplicity of proceedings. Therefore, this Court is of consideration to allow the present application. Hence, Point No.1 is answered in **Affirmative.**

8. Point No.2: In view of the findings recorded on above point No.1, this Court deems it fit to allow the above application. Accordingly the following:

ORDER

IA No.II filed by the respondents under Order 9 rule 7 of CPC is hereby allowed on costs of Rs.200/-.

The order placing the respondents as ex-parte, is hereby recalled.

For hearing respondents on commissioner's report by:19.12.2025.

Sd/-
(Vishwanath.A)
Prl. Civil Judge & JMFC.
Mudigere.