

Learned counsel for the petitioner filed I.A.No.2 U/O. 26 Rule 9 r/w sec. 151 of CPC to appoint court commissioner to demarcate the shares as per the judgment passed by this court in O.S.No.39/2019.

Learned counsel for the respondent No.22 and 24 filed memo stating that respondent No.10 to 18, 20, 22 and 24 preferred RFA before District and Sessions Judge Court at Chikkamagaluru against the Judgment and Decree passed by this court in O.S.No.39/2019.

Heard the learned counsels on IA No.2. For orders.

Sd/-

Sr. Civil Judge and JMFC.,
Mudigere

Petitioners have filed this petition U/Sec. 26 Rule 9 r/w sec. 151 of CPC and prays to appoint Taluk Surveyor, Mudigere to effect partition in respect of petition schedule properties as per the Preliminary Decree passed in O.S.39/2019.

The respondent No.22 and 24 appeared through their counsel and filed memo stating that they have preferred RFA before the Hon'ble District and Sessions Judge, Chikkamagaluru against the judgment and decree passed by this court in O.S.No.39/2019. However, they have not placed any order from Hon'ble Appellate court to stay the further proceedings of this case.

Perused the petition and decree passed by this court in O.S.No.39/2019.

The present final decree proceedings are initiated by the petitioners to divide the properties as per Judgment and decree passed by this court in O.S.No.39/2019 dated 16.11.2024. Now the petitioners prays to appoint court commissioner to divide the properties.

The respondent No.22 and 24 appeared through their counsel but not filed objection. Though the respondent No.22 and 24 by filing memo stated that they have preferred RFA before the Hon'ble District and Sessions Judge, Chikkamagaluru against the judgment and decree passed by this court in O.S.No.39/2019. However, they have not placed any order from Hon'ble Appellate court to stay the further proceedings of this case. Thus it is clear that the judgment and decree passed by this court has attained its finality and there is no stay. As such in order to execute the preliminarily decree it is necessary to allow the prayer of the petitioners. Accordingly, I pass the following;

ORDER

The Taluk Surveyor, Mudigere is appointed as Court commissioner to divide the item No.1 to 12 of the petition schedule properties as per judgment and decree passed in O.S.No.39/2019.

The court commissioner fee is fixed at Rs.2,000/- is tentatively fixed.

The petitioners are directed to deposit the commissioner fee.

Issue commissioner warrant if memo of instruction and commissioner fee is deposited and documents are furnished R/by 05.01.2026.

Sd/-

Sr. Civil Judge and JMFC.,
Mudigere