



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C
AT N.R.PURA**

Present : Sri. Raghunatha Gowda K.T., B.Com., L.L.B,
Senior Civil Judge & J.M.F.C., N.R.Pura

Dated this the 1st day of July, 2026

F.D.P. No.01/2020

Petitioner/s: Smt. Nagarathna @ Nagamma,
W/o. Shankar Gowda.
Aged about 46 years,
R/o Sinthiya Kolako,
House No.605,
Kolako Vado, Vellim, Salset,
Goa – 403723.

(By: Sri. H.A.S., Advocate)

V/s

Respondent/s: 1. Smt. Kamalamma,
W/o. Veerupakshappa Gondi,
Aged about 67 years,
R/o Renukanagar,
Balehonnur,
B. Kanabur Village,
N.R. Pura Taluk,
Chikmagalur District.



Dead by LRS.

Petitioner and respondents are legal heirs, who are on record

2. Smt. Uma Lingappa Eligar,
Aged about 51 years,
R/o Renukanagar,
Balehonnur,
B. Kanabur Village,
N.R. Pura Taluk,
Chikmagalur District.
3. Sri. Basavaraj,
S/o. Veerupakshappa Gondi,
Aged about 41 years,
R/o Renukanagar,
Balehonnur,
B. Kanabur Village,
N.R. Pura Taluk,
Chikmagalur District.

(Respondent No.1 dead, Respondent No.2 represented by Sri. S.P., Advocate, Respondent No.3 represented by Sri.N.V.S., Advocate)



ORDER

The petitioner filed this petition under Order XX Rule 18 of C.P.C. to drawing the final Decree in terms of Preliminary decree passed in O.S. No.85/2007.

2. The averments of the petition in brief are as follows:

The petitioner filed a suit in O.S. No.85/2007 before the Hon'ble Senior Civil Judge at Yallapura against respondents for partition and separate possession of the petition schedule property. Thereafter, after contest the suit same was decreed and order that the Petitioner, respondent No.1, 4 and 5 are entitle $1/4^{\text{th}}$ share each in the suit schedule property. The petitioner has filed this petition demarcate her share in the suit schedule property. Hence this petition.

3. The notices served to respondents, the respondent No.2 and 3 are appear through their counsel but they did not filed any objection to the said petition.



Further notice served to the respondent No.1, subsequently she died leaving behind the petitioner and respondent No.2 and 3 are only legal heirs and thereafter the shares of the parties are modified that petitioner, respondent No.2 and 3 are entitle 1/3rd share each in the schedule property.

4. Heard the arguments on petitioner and respondent No. 2 and 3 counsels.

5. On perusal of the records of the case, the following points would emerge for my consideration:

1. Whether Petitioner has made out ground for allowing the petition and thereby drawing the final decree as sought in the petition ?
2. To what order ?
6. My findings on the above points are as under:
Point No.1 : In the Affirmative.
Point No.2 : As per final order
for the following:



REASONS

7. **Point No.1:** It is not in dispute that the petitioner has filed O.S. No.85/2007 for relief of partition and separate possession and the said suit was decreed on 30.03.2013 by the Hon'ble Senior Civil Judge at Yallapura, the petitioner and respondent No.1, 4 and 5 are entitle $1/4^{\text{th}}$ each share in the suit schedule property. Further after demise of respondent No-1 shares were modified to extent of $1/3^{\text{rd}}$ each share.

8. Further thereafter this court appointed the Taluk Surveyor, ADLR Office, N.R.Pura as a Court Commissioner to conduct the commission work and submit his report for demarcating the share of the petitioner and respondent No.2 and 3 in respect of suit property. Accordingly the Taluk Surveyor, ADLR Office, N.R.Pura has got issued the notice to both parties and after conducting the local inspection and demarcating the share of the petitioner and respondent No.2 and 3 in



respect of the suit property has submitted the report to this court on 12.08.2025 and same has endorsed regarding receiving the same by the court.

9. Further the petitioner counsel filed objection to commissioner report contended that the commissioner has not properly measured and demarcate the schedule property for the shake of convenience of the party and the commissioner report filed by the commissioner in favour of respondent. Further he contended that the commissioner shown the vacant site on the back portion and the respondents have got more value than the share of petitioner. Further the commissioner has not mentioned the share of the house building and also shopping premises. Hence he prays to reject the commissioner report.

10. Respondent No.3 filed objection to commissioner report contended that the suit property is not available for partition, the father of the petitioner is only licensee under



Balehonnuru Panchayath and no grant certificate issued to his father. Further he contended that the wife of the respondent No.3 has obtained the license from the panchayath for the provision store and also obtain the loan from the Sharadi Souhardha Co-operative Society for the Provision Store and also obtain the loan from the Dharmasthala Sangha. The commissioner submit a report as a sitting Judge to allotted the share of petitioner and respondents. Further the Court Commissioner report is one sided to help the petitioner and respondent No.2 and there is no such measurement of the site available in the spot. Hence he prays to reject the Commissioner Report.

11. On careful perusal of record it is not disputed fact that the petitioner filed a suit in O.S. No.85/2007 for partition and separate possession before the Senior Civil Judge, Yallapura, the said suit was decreed on 30.03.2013 that the plaintiff and defendant No.1, 4 and 5 are entitle $1/4^{\text{th}}$ each share in the suit schedule property. Further it is not disputed fact that with respect to the



present suit schedule property the decree was transferred to this Court. Further during pendency of the petition the respondent No.1 died and shares of the parties were modified and the petitioner and respondent No.2 and 3 are entitle 1/3rd share each in suit property and this Court proceed with the matter.

12. This court has carefully perused the report and sketch submitted by the ADLR along with the statement, notices issued to the parties. After considering the notice issued by the said ADLR. It appears that this court the ADLR before visiting the petition schedule property issued notice to the parties to appear at the petition schedule property at the time of conducting the local inspection. The ADLR in the sketch submitted along with the report has shown the portion which will be allotted to the parties to the petition, but the commissioner has no power to allotted the share what was stated in the report, the commissioner only to demarcate the property and submit his report and he has no power to allot the share in which



portion the parties. Admittedly in the report the commissioner has assigned the Block – I property belongs to respondent No.3, the Block – II belongs to petitioner and Block – III property belongs to respondent No.2.

13. This Court has careful perusal of the record and both the parties are not disputed the demarcation of the property by the ADLR, but their contention that the ADLR has no power to allot the share to the parties. Further in the objection statement to the Commissioner Report the respondent No.3 taken contention that his wife obtained the permission to run the shop in the schedule property by availing loan from Co-operative Society and Dharmasthala Sangha considering the said fact this Court allotted the share as under;

(1) Block No-I, portion of Sy. No.139 of suit property measuring 5.33 meter x 4.34 meter is allotted to the share of petitioner.



(2) Block No-II, portion of Sy. No.139 of suit property measuring 5.33 meter x 4.33 meter is allotted to the share of respondent No.2.

(3) Block No-III, portion of Sy. No.139 of suit property measuring 5.33 meter x 4.33 meter is allotted to the share of respondent No.3.

14. This court has carefully perused the report of the ADLR and also blocks which was allotted by this Court to the parties to the petition pertaining to suit property. After considering the said sketch in respect of the schedule property. This court is of the opinion that the demarcation made by the ADLR in respect of suit property as per the share of the party to the petition, the petitioner and respondent No.2 and 3 are entitled 1/3rd each share in accordance with law. With these observations of this court is of opinion that the said report of the ADLR is in accordance with law and the same is accepted. After considering all these facts and circumstances of the case, this court is of the opinion that the final decree has to be



drawn as sought by the petitioner pertaining to suit property. Hence I answer **Point No.1 in the Affirmative.**

15. **Point No.2:** In view of my discussion made supra, I proceed to pass the following:

ORDER

The petition filed by the Petitioner under Order XX Rule 18 of C.P.C is hereby allowed.

(1) Block No-I, portion of Sy. No.139 of suit property measuring 5.33 meter x 4.34 meter is allotted to the share of petitioner.

(2) Block No-II, portion of Sy. No.139 of suit property measuring 5.33 meter x 4.33 meter is allotted to the share of respondent No.2.

(3) Block No-III, portion of Sy. No.139 of suit property measuring 5.33 meter x 4.33



meter is allotted to the share of respondent No.3.

The commissioner's report submitted by the ADLR, N.R.Pura in respect of suit property of the petition along with the sketch is part and parcel of the Final Decree.

Further office is directed to draw final decree after obtaining necessary stamp papers furnished by the both parties.

No order as to cost.

Draw final decree accordingly.

(Dictated to Stenographer directly on computer, computerized by her, corrected and signed by me and then pronounced in the open Court on this the **1st day of July, 2026**).

(Raghunatha Gowda K.T.)
Senior Civil Judge and J.M.F.C.,
N.R.Pura.



: ANNEXURE :

List of witnesses examined for Petitioner : NIL
List of exhibits marked for Petitioner : NIL
List of witnesses examined for Respondents : NIL
List of exhibits marked for Respondents : NIL

(Raghunatha Gowda K.T.)
Senior Civil Judge and J.M.F.C.,
N.R.Pura.