



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

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

Dated this the 19th day of July, 2025

F.D.P. No.6/2023

- Petitioners** : 1. Sri. K. Ramachandra,
S/o. Late Sri. K. Shankaranarayana
Bhatt, Aged about 65 years,
R/o. 2nd stage, 2nd Cross,
Nagarabavi, Bangalore.
2. Sri. K. Rajagopal,
S/o. Late Sri. K. Shankaranarayana
Bhatt, Aged about 64 years,
R/o. 177, 4th Main, 7th Cross,
Banashankari, 5th Stage,
Bangalore – 61.

(By Sri. G.M.V., Advocate)

-V/s-

- Respondents** : 1. Sri. K.S. Shridhara,
S/o. Late. Sri. K. Subramanya
Bhatt, Major in age.
2. Sri. K.S. Krishnaprasad,
S/o. Late. Sri. K. Subramanya
Bhatt, Major in age.



3. Sri. K.S. Ramakrishna,
S/o. Late Sri. K. Subramanya
Bhatt, Major in age.

Respondnt No.1 to 3 are residents of
Sreemata Road, Hariharapura Town
and Post, Koppa Taluk.

4. Sri. K.S. Shridhara,
S/o. Late. Sri. K. Subramanya
Bhatt, Major in age,
R/o. Raj Mahal Hotel & Lodging,
Ananda Rao Circle,
Bangalore – 560 001.
5. Smt. Sharadamma B.S.,
S/o. Late. Sri. K. Subramanya
Bhatt, Aged about 74 years,
R/o. 854, 21 Main, 11th B Cross,
J.P. Nagar, Bangalore – 78.
6. Smt. Savitramma K.,
S/o. Late. Sri. K. Subramanya
Bhatt, Aged about 68 years,
R/o. A59, 31 A Cross, 7th Block,
Jayanagar, Bangalore – 82.
7. Smt. Susheela K.,
S/o. Late. Sri. K. Subramanya
Bhatt, Aged about 66 years,
R/o. 116, Parvathi Krupa,
Upper Hostel, Madikere-571 201.



8. Smt. Vijayalakshmi K.,
D/o. Late. Sri. K. Subramanya
Bhatt, Aged about 64 years,
R/o. 32, 29th Cross, 7th Block,
Jayanagara, Bangalore – 82.
9. Smt. Bharathi,
D/o. Late. Sri. K. Shamanna,
Major in age, R/o. 95, 1st Cross,
KGS (Karnatka Govt.Secretary
Layout Vijayanagara),
Bangalore – 560 040.
10. Smt. Anasuya,
W/o. Sri. Shivaswamy,
Major in age, Retired Teacher,
R/o. Anugraha, B.B. Street,
Shivamogga.
11. Smt. Sumitra,
W/o. Late. Shamanna,
R/o. Devasthana Road,
Kalasa – 577 124.
12. Smt. Sreelakshmi,
W/o. Sheshadri,
Major in age, R/o. Vasista,
No.2280, 22nd Cross, B.S.K.,
2nd Stage, Bangalore – 560 070.



13. Smt. Suparna,
W/o. Sri. Subramanya,
Major in age, R/o. No.10,
Vasudeva Nilaya,
Police Layout,
Opp: JeevanShanthi,
Vriddashrama,
Vivekananda Nagara,
Shivamogga – 577 201.

(Respondent No.1, 2, 4, 9, 11 and 12 represented by Sri. B.S.N., Advocate, Respondent No.5 to 8 represented by Sri. B.K.V., Advocate, Respondent No.3, 10 and 13 absent)

ORDER ON I.A. NO.II

The learned Counsel for the plaintiffs/petitioners filed this application under Order XXVI Rule 9 of the Code of Civil Procedure, seeking to appoint A.E.E., P.W.D., Department, Koppa as a court commissioner for division of the 'C' schedule suit property by conducting survey, measurement and identification by boundaries in accordance with the preliminary decree dated: 03.11.2023 passed in O.S. No.48/2018 and submit his report along with map before the court as prayed in I.A.No.II.



2. In support of this application, the petitioner No.2 filed his affidavit, he contended that he obtain the preliminary in respect of "C" schedule suit schedule property, in spite of decree the respondents did not come forward to give the share in the suit property, so that reason they have filed this application. Hence, he prays to allow the application.

3. After service of notices, the respondent No.1, 2, 4, 9, 11 and 12 are filed objection to the said application. respondent No.5 to 8 counsel submit that they have no objection allow the said application.

4. In the objection statement the respondent 1, 2, 4, 9, 11 and 12 are contended that the application filed by the petitioner is not maintainable either in law or facts, the respondent No.2 has constructed a shop adjoining to the residential house, which is not included in the schedule of the original suit. Hence the same cannot be surveyed and demarcated. Further he contended that this court has no jurisdiction to go behind the decree of the court and rights of the parties. Further he contended that the present application is not maintainable without



amending the decree. Hence they pray to reject the said application.

5. Heard the arguments on both side.

6. On careful perusal of the records, the points that arise for my consideration are as under :

1. Whether the petitioner has made out sufficient grounds to allow this application?

2. What Order ?

7. My findings to the above points is as under :

Point No.1 : In the Affirmative.

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

REASONS

8. **Point No.1**:- Admittedly this Petition came to be filed by the petitioners to draw Final Decree as per the as per preliminary decree dated 03.11.2023 passed in O.S. No.48/2018 to appoint A.E.E., P.W.D. Department, Koppa as Court Commissioner to measure the 'C' schedule house property to demarcate the shares of the parties. After judgment



and decree passed in O.S. No.48/2018 the contesting respondent No.1, 2, 4, 9, 11 and 12 are not challenging the said judgment and decree before the Appellate Court. Since there being no rebuttal from the side of Respondents No.1, 2, 4, 9, 11 and 12 and as per facts and circumstances, it goes to show that the appointment of A.E.E., P.W.D. Department, Koppa is very much necessary in this case for demarcate the petition schedule property as per preliminary decree passed in O.S. No.48/2018. Sufficient grounds have been made out by the Petitioners to allow the application and there is no stay order from the Appellate Court to stay this proceedings. Accordingly, I answer point No.1 in the 'Affirmative'.

9. **POINT No.2** : For the reasoning's and findings given to point No.1, I proceed to pass the following:

ORDER

I.A. No.II filed by Petitioners counsel under Order 26 Rule 9 R/w. Sec.151 of C.P.C. is hereby allowed.

The A.E.E., P.W.D. Department, Koppa is hereby appointed as Technical Commissioner to demarcate the 'C' petition



schedule property and to submit his report as per preliminary decree passed in O.S No.48/2018, dated 03.11.2023.

The commissioner fee fixed at Rs.2000/-.

Call on for payment of commissioner fee and for memo of instructions of Petitioner by hearing date.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this **19th day of July 2025**)

Sd/-

(Raghunatha Gowda K.T.)
Senior Civil Judge & JMFC.,
N.R.Pura, Itinerate at Koppa.