

**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC,
KOLLEGALA.**

Dated this the 22nd day of June, 2026

F.D.P. No. 02/2020

Petitioner : Nagalingesh

V/s.

Respondents : R. Nagendra Guptha
[Since dead represented by
Respondent No. 2 & 3 & others]

I.A. No. X

Applicant : Bharath - 2nd respondent

V/s.

Opponent : Nagalingesh - Petitioner

Orders on I.A. No. X

This is an IA X filed by applicant/respondent No: 2 on 11.02.2026 under Section 151 of the CPC seeking permission to file an additional objection statement to the main petition filed under Order XX Rule 18 CPC for passing of a final decree.

2. The averments of the application and accompanying affidavit disclose that the petitioner has

initiated the present final decree proceedings based on the preliminary decree dated: 31-10-2019 passed in the suit for partition and separate possession in respect of the schedule properties. It is contended by respondent No: 2 that though the said judgment and preliminary decree have been challenged before the Hon'ble High Court no order of stay has been granted. It is further contended that during the pendency of the proceedings the 1st defendant who had been allotted $\frac{1}{2}$ share in item Nos: 1 to 4 of the suit schedule properties under the preliminary decree, died and consequently his share devolved upon his legal heirs. According to respondent No: 2 in view of the said subsequent event redistribution of the share allotted to the deceased 1st defendant amongst his legal representatives has become necessary and unless the same is taken into consideration the preliminary decree cannot be effectively worked out. It is stated that due to inadvertence these facts were not incorporated in the earlier objection statement and therefore permission is sought to file an additional objection statement raising the said plea. Accordingly prays for allow the application.

3. The opponent/petitioner has filed objections on 04.04.2026 to the application contending that

respondent No: 2 has already filed his objection statement to the main petition. It is further contended that the Court Commissioner has already visited the spot and submitted his report and therefore at this advanced stage of the proceedings permitting respondent No: 2 to file an additional objection statement would cause delay in disposal of the final decree proceedings. Hence the petitioner has sought dismissal of the application.

4. Heard the learned counsel for both parties and perused the materials available on record.

5. The following point arise for my consideration:

1. *Whether the applicant/2nd respondent has made out any ground to allow the application?*
2. *What order?*

6. My findings to the above point is:

Point No.1: In the affirmative

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

REASONS

7. Point No. 1: It is seen from the records that a preliminary decree came to be passed on 31-10-2019 wherein the 1st defendant was declared his entitlement to ½ share in item Nos. 1 to 4 of the suit schedule properties. It is not in dispute that during the pendency

of the present final decree proceedings the said 1st defendant died. It is also not in dispute that respondent Nos: 2 and 3 are the only legal representatives of the deceased 1st defendant and are represented by different counsel before this Court.

8. It is well settled that in partition matters the Court is empowered to take note of subsequent events occurring after the passing of the preliminary decree and before passing of the final decree so as to effectively and completely determine the rights of the parties. A final decree proceeding is a continuation of the suit and the Court is not precluded from considering subsequent circumstances which have a bearing on the actual division and allotment of shares. The death of a party to whom a definite share has been allotted under the preliminary decree is undoubtedly a relevant subsequent event which requires consideration while drawing up the final decree.

9. The contention of the petitioner that the Commissioner has already submitted his report and therefore no further objections can be entertained cannot be accepted. The purpose of the present application is not to reopen the findings recorded in the preliminary decree but only to bring on record a subsequent

development which has occurred during the pendency of the final decree proceedings. Consideration of such subsequent development is necessary for effective adjudication of the rights of the parties and for passing a workable final decree. No serious prejudice would be caused to the petitioner if respondent No: 2 is permitted to place the said facts on record whereas refusal of such permission may result in multiplicity of proceedings and difficulties in execution of the final decree. Further since respondent Nos: 2 and 3 are the legal representatives of the deceased 1st defendant and are separately represented before the Court, the question regarding devolution and allocation of the share of the deceased 1st defendant amongst them necessarily requires consideration while effecting actual partition of the properties. Therefore the proposed additional objection statement appears to be relevant and necessary for the proper adjudication of the final decree proceedings. Therefore **point No: 1 is answered in the affirmative.**

10. Point No. 2: In view of answering point No. 1, I proceed to pass the following:

ORDER:

I.A. No. X application filed by the applicant/2nd respondent under Section 151 of the CPC is hereby allowed.

No order as to costs.

(Dictated to the Stenographer directly on computer, typed by her, corrected and then pronounced by me in the open Court on this the 22nd day of June, 2026).

(SUNITHA)

Senior Civil Judge & JMFC.,
Kollegala.