

FDP.No.02./2022

ORDER ON APPLICATION U/SEC.54 R/W 151 OF CPC

This is an application filed by the petitioner for appointment of an ADLR as court commissioner for make partition of the estate/separation of share for which plaintiff is entitled in the suit schedule properties resultantly handed over the physical possession of the same to the petitioner as per the judgment & decree dated 29.09.2021.

It is stated in the accompanying affidavit that, the petitioner has filed this final decree proceedings against the respondents for seeking the relief of make partition according to preliminary decree dated 29.09.2021 by metes and bounds, by appointing the Assistant Director of Land records as a court commissioner for make partition and put the petitioner in her share in separate possession of the petition schedule properties.

Notice of the petition are duly served to the respondent nos.1 to 4, respondents nos.2 & 3 appeared through their advocate, respondent nos.1 to 4 are placed exparte, steps taken against remaining respondent nos.5 to 7 through court notice and RPAD on so many occasions, due to some reasons mentioned in the shara the said notices were un-served to the said remaining respondent. Inevitably with the permission of this Hon'ble Court have taken steps through substituted mode of service against the respondent nos.5 to 7 by way of paper publication in state level two Kannada leading daily news papers, even though the respondent nos.5 to 7 absent before this Hon'ble Court, by considering the same the Hon'ble

Court make them placed exparte. In the aforesaid circumstances, as per the aforesaid decree of this Hon'ble court to get my allocated share and possession in the suit schedule properties the accompanied application.

It is the relief sought in the execution petition that this Hon'ble court be pleased to pass a final decree by appointing the ADLR as a court commissioner to make partition according to preliminary decree dated 29.09.2021 by metes and bounds and put the petitioner in her separate possession of the petition schedule properties as per said decree and also grant such other relief as this Hon'ble Court deems fit and proper in the fact and circumstances of the case.

It is important to reiterate the order portion of OS.No.9/2017:-

"For partition and separate possession by serving the plaint schedule properties by metes and bounds to the extent of 1/5th share and put the plaintiff in actual physical possession of the same.

Declaring the alleged registered sale deed dated 01.03.1999 and 14.11.2003 as well as 03.12.2016 respectively which are taken place between the 1st and 5th defendant, and subsequent alienation's occurred amongst properties as null and void, resultantly they are not binds the plaintiff to the extent of 1/5th share for which the plaintiff is to entitle.

Order for present and future mense profit for which the plaintiff is entitle by considering separate enquiry and grant court cost and such other reliefs as this Hon'ble court deems fit and proper in the circumstances in above case in the interest of justice and equity.

To award costs of the case and such other reliefs as deem fit and proper in the circumstances in above case in the interest of justice and equity."

The plaint schedule 'A' property contains agricultural land bearing Sy.No.377/1 measuring 1.14 acres situated at Yaragamballi village, Kasaba Hobli, Yelandur Taluk, bounded on east by: Gangavadi Mariswamy S/o Puttamadaiah (previously belongs to Mallanna) west by: Government oni, north by: property of Gurusiddadevaru and Nanjundaswamy S/o Karinanjanapura Shivappa, and south by: Mahadevappa S/o Veeranna, now 6th defendant.

Agricultural land bearing Sy.No.373/2 measuring 4.17 acres situated at Yaragamballi village, Kasaba Hobli, Yelandur Taluk, bounded on east & north by: Mahadevappa S/o veeranna, now 6th defendant west by: land of Gurusiddadevaru and Nanjundaswamy S/o Karinanjanapura Shivappa, and south by :Gangavadi Mariswamy S/o Puttamadaiah (Previously Mallanna).

The plaint schedule 'B' property contains country tiled house property and vacant place situated at Yaragamballi village, bearing zenger no.239/1, 239/4 property, country tiled house with varasuthu measuring

44X25 feet bounded on: east by: property belongs to Mahadevappa S/o Veeranna, west & south by road and north by: house belongs to Mahadevappa S/o Veeranna.

Vacant place measuring 25X17 feet, bounded on east by: one more property belongs to plaintiff and defendants nos.1 to 4, west and south by property belongs to Mahadevappa S/o Veeranna, and north by house belongs to Nanjappa S/o Shivappa.

Vacant hittal place bearing No.239/5 measuring 59X42 feet, bounded on east by: property belongs to Mahadevappa S/o Mallappa west by: house of Nanjappa S/o Shivappa, north by- property belongs to Nagarajappa S/o Malladevaru and south by property of Mahadevappa S/o Veerappa.

Therefore it is just a necessary to appoint a Assistant Director of Land Records as a court commissioner to measure the plaint schedule properties and allot the separate shares to the parties as per the preliminary decree. Hence application filed by the petitioner is hereby allowed. Hence, I proceed to pass the following:-

ORDER

The application filed by the petitioner is hereby allowed.

The ADLR is appointed as a court commissioner to measure the plaint 'A' and 'B' schedule properties and allot 1/5th share to the petitioner and respondents as per the preliminary decree.

The commissioner fee is fixed Rs.2,500/-.

Office is hereby directed to issue intimation to the ADLR regarding aforesaid orders.

Issue commissioner warrant.

For report.

Call on 29.07.2025

***The Civil Judge & J.M.F.C.,
Yelandur.***