

KADG210003672024



Presented on : 24-06-2024
Registered on : 24-06-2024
Decided on : 15-04-2026
Duration : 1 years, 9 months, 21 days

**IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.
AT: CHANNAGIRI**

Present:
Soubhagya.B.Bhusher
B.A.,LL.M
Senior Civil Judge & J.M.F.C.,
Channagiri

DATED; THIS THE 15th DAY OF APRIL-2026
F.D.P.NO.6/2024

PETITIONER

Smt.Asha W/o Niranjanamurthy, Age: 36 years, Occ: Agriculturist and Housewife, R/o: Chiradoni, C/o: Hosakunduru Village, Kasaba Hobli, Tq:Hosadurga, Dist: Chitradurga.

(By Sri.A.N.Lingamurty.,Adv.,)

V/s

RESPONDENTS

1. Smt. Manjamma W/o Late Goneppa, Age: 68 years, Occ: Housewife, R/o: Chiradoni, Basavapattana Hobli, Tq:Channagiri, C/o: Devarahonnali, Tq:Honnali, Dist: Davanagere.
2. Smt.Sudha D/o Late Goneppa, Age: 30 years, Occ: Agriculturist & Housewife, R/o:

Devaranonnali, Tq:Honnali, Dist:
Davanagere.

(Exparte.,)

(Soubhagya.B.Bhusher)
Senior Civil Judge & J.M.F.C.
Channagiri

ORDER

The present petition is filed by the petitioner under order 20 Rule 18 CPC R/w Section 54 of C.P.C., and under order 20 Rule 12 of CPC., praying to allotment of 1/3th each share in the suit schedule properties as per the preliminary decree passed in O.S.No.4/2016 dated: 30.07.2018 and put the plaintiff/petitioner in possession of the same after effecting division.

2.Brief case of the petitioner's is that;

The petitioner/plaintiff has filed a suit in O.S No.04/2016 on the file of this court for the relief of partition and separate possession of her share in the suit schedule properties. The said suit after contest came to be decree on 30.07.2018 declaring that the plaintiff/petitioner is entitled to 1/3rd share in the suit schedule properties shall have to be effected through the process of court as contemplated under Section 54 of the CPC. Further stated that even though the respondents are on record all though the court observed and order need not advert into the contentions take by the respondents/defendants. Hence, the petitioner/plaintiff and the respondents/defendants only have the legitimate right. Further in the pursuance of the preliminary

decree the defendants have not obeyed the decree and therefore the petitioner prays to appoint a court commissioner to divided the plaint schedule properties by metes and bounds and put the petitioner in her 1/3rd share in the suit schedule properties, this court decreed in the item No.1 property was the petitioner and the respondents include the jointly sale the property in item No.1 as per the judgment and decree. Hence, this petition.

3. In response to the notices, the respondents were remained absent and they were placed exparte.

4. Thereafter, the ADLR Channagiri was appointed as Commissioner to demarcate the share of the parties in the petition property as per preliminary decree passed in O.S.4/2016. The said commissioner carry out commission work and to submit his report along-with sketch recommending the allotment of shares to the parties.

5. Thereafter, the learned counsel for the petitioner has submitted no objection to the commissioner's report.

6. Heard arguments at length and perused the oral as well as documentary evidence placed on record. The following points arise for consideration:

1. Whether allotment of shares in the petition property as recommended by the commissioner is just reasonable and convenient?

2. What order?

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

Point No.1: In the Affirmative.

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

:REASONS:

8.POINT NO.1: The undisputed facts emanating from the records of the case is that the petitioner had filed a suit for partition and separate possession of her share in the suit schedule property in O.S.No.4/2016 which came to be decreed holding that the plaintiff along with the defendant No.1 and 2 are entitled to 1/3rd share each. Thereafter, the respondents had not preferred any appeal against the preliminary decree so passed by this court. Hence, the judgment and decree passed by this Court attain finality.

9. Thereafter, as per under order 26 Rule 13 R/w Section 151 of Code of Civil Procedure, 1908, this Court had appointed the ADLR Channagiri as a Commissioner to carry out commission work for demarcating the shares of the parties in the petition property as per preliminary decree. The ADLR Channagiri had carried out the commission work and submitted his report. Admittedly, the petitioner has submitted no objection for accepting the court commissioner report and prayed to draw final decree in view of court commissioner report by accepting it.

10. Having considered the court commissioner's report, this court noticed that the petition schedule properties are shown as Sy.No.30/7, 31/P1 and 24/5B3 are situated at Chiradoni village, Basavapatna 1st Hobli, Tq: Channagiri and the court commissioner submitted his report by dividing the petition properties by giving Block numbers i.e Block No.I being allotted

to the petitioner, Block No.II and III are being allotted to the share of the respondent No.1 and 2.

11. The petitioner has submitted no objection to accept the court commissioner report and prayed to draw final decree as having no objection.

12. Having considered the court commissioner report as well as preliminary decree passed in O.S.No.4/2016, this court noticed that the court commissioner demarcated the petition schedule properties as per preliminary decree passed in O.S.No.4/2016 and proposed feasibility of partition by referring the names of parties against to the Block numbers. On perusal of the report, this court is of the opinion that the court commissioner demarcated the petition schedule properties in consonance with the preliminary decree passed in O.S.No.4/2016. Since, the petitioner has submitted no objection for accepting the report and passing final decree accordingly, there is no hurdle for considering the court commissioner's report and passing final decree accordingly. With these observations, Point No.1 is answered in the Affirmative.

13.POINT NO.2: In view of forgoing reasons, I proceed to pass the following;

:ORDER:

The petition filed under order 20 Rule 18 R/w Section 54 of CPC., and under order 20 Rule 12 of CPC., by the petitioner is hereby allowed.

In Item No.1 to 3 in schedule property Block No.I as demarcated by the court commissioner/ADLR Channagiri in his sketch is allotted to the petitioner.

Further Block No.II and III as demarcated by the court commissioner/ADLR Channagiri in his sketch is allotted to the respondent No.1 and 2.

It is also made clear that the sketch prepared by the Commissioner shall form the part of the Final Decree.

Draw Final decree on furnishing Non-Judicial Stamp by the petitioner.

(Dictated to the stenographer directly on computer, typed by her, revised by me, and then pronounced in the open court on this the 15th day of April 2026)

**(Soubhagya.B.Bhusher)
Senior Civil Judge & J.M.F.C.,
Channagiri**