

When this court takes up matter for passing final decree, noticed that, the court commissioner submitted his report in respect of Item N0:1 petition schedule property i.e Sy.N0:68/1 measuring 1 acre 37 gunta of Jodi Timlapura village. The court commissioner made note that, after phodi proceedings, Sy.N0:68/1 property being re-numbered as per Sy.N0:68/4, which the petitioners not brought to the notice of this court. The court commissioner proposed 1/th each share to the petitioners by showing Block N0:1 & 2 and kept 3/6th joint share to the respondents.

The court commissioner not submitted his report in respect of Item N0:2 petition schedule property i.e Sy.N0:3/1ap measuring 2 acre 16 ½ gunta land with the 3 gunta kharab land stating that, the petitioners and

respondents are not in possession of Sy.N0:3/1a, but in possession of Sy.N0:3/1b. Since, the petitioners and respondents are not in possession of Item N0:2 schedule property, the court commissioner not measured Item N0:2 petition schedule property. Without looking into the court commissioner report, the counsel for the petitioners submitted no objection for passing final decree by accepting court commissioner report. In view of above reasons, the court commissioner report is not liable to be accepted, since no division being proposed in Item N0:2 petition schedule property, since the petitioners and respondents are not in possession of Item N0:2 petition schedule property. For want of possession as well as the court commissioner report, this court is unable to accept the court commissioner report to pass final decree thereby.

Call on for hearing in respect of current survey number of Item N0:1 schedule property and possession of Item N0:2 petition schedule property as per report submitted by the court commissioner by 24-02-2025.

Senior Civil Judge & JMFC
Channagiri.

