

ORDERS ON I.A.No.4 and 5

This is applications filed by petitioner U/O. 26 Rule 13 R/W .Sec.151 of CPC requesting the Court to appoint Tahasildar Nyamathi and P.W.D. Engineer, Nyamathi as a Court commissioners to see feasibility of division of properties and to effect division of properties as per preliminary decree passed in O.S.No.97/2007.

Advocate for respondent orally objected.

Heard both side.

Perused the records placed before the Court.

The following points arise for my consideration:

Point No.1 : Whether petitioner has made out sufficient grounds to appoint Court commissioners as prayed for by her in application ?

Point No.2 : What Order ?

My answer to the above points are as follows:

Point No.1 : In the Affirmative.

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

REASONS

Point No.1 : As per records placed before the Court it is not in dispute that, suit filed by the petitioner in O.S.No.97/2007 was decreed by the Court by its Judgment and Decree dated 12/07/2016. It is to be noted that, in suit it is held that, plaintiff and defendants are entitled for 1/4th share each in suit schedule properties.

Now petitioner is requesting the court to appoint Tahasildar Nyamathi and P.W.D. Engineer, Nyamathi as a Court commissioners as a Court Commissioners to effect division of suit properties as per share declared in preliminary decree. Taking into consideration of reasons assigned in an affidavit filed in support of applications if

same is allowed, no hardship would be caused to the other side. Hence, I answer point No.1 in the Affirmative.

Point No.2 : On above made discussion on point No.1, I proceed to pass the following:

ORDER

I.A.No.4 and 5 filed by petitioner U/O. 26 Rule 13 R/W.Sec.151 of CPC are hereby allowed.

The Tahasildar Nyamathi and P.W.D. Engineer, Nyamathi as a Court commissioners are appointed as Court commissioners to ascertain feasibility of division of suit properties as shown in schedule to the plaint or to effect division of suit properties as per preliminary decree passed in O.S.No.97/2007 and file report thereon.

The Court commissioners fee tentatively fixed as Rs.2,500/- each.

If Court commissioner's fee is deposited issue commission warrant.

Call on :

Sd/-

Senior Civil Judge
Harihara.