

KADG320002412022



**IN THE COURT OF THE I ADDL. CIVIL JUDGE & J.M.F.C.
HARIHAR.**

: PRESENT:

Sri. SHRINIVAS PATIL. B.A. LL.B. LL.M

I Addl. Civil Judge & JMFC, Harihar.

Dated this the 01st day of AUGUST 2026

FDP NO. 14/2022

Petitioner: 1. Smt. Sharadamma
W/o.Late Basavarajappa,
Aged about 48 years,
R/o: Indira Nagar, Harihar Town,
Davanagere District.

2.Smt. Kalamma
W/o. Basappa,
Aged about 41 years,
R/o. Nagenahalli Village,
Harihar Taluk,
Davanagere District.

(Rep. By Sri. S.N.S., Adv.,)

V/s.

Respondents :

1. Ganeshappa
S/o Late Nagappa @
Buldikatti Kolkar Nagappa,

Aged about 58 years,
R/o: Old Barampura Extension, Harihar
Town, Davanagere District.

2. Fakirappa
S/o. Late Nagappa
@ Buldikatti Kolkar Nagappa,
Aged about 55 years,
R/o. Old Barampura Extension,
Harihar Town, Davanagere District.
3. Geetamma
W/o Late Beerappa
@ Taragar Beerappa,
Aged about 51 years,
Occ: House hold work,
4. Harish S/o. Late Beerappa @
Taragar Beerappa, Aged
about 29 years, Occ: Coolie.
5. Manikanth
S/o. Late Beerappa
@ Taragar Beerappa,
Aged about 24 years,
Occ: Coolie,
6. Jyothi
D/o. Late Beerappa
@ Taragar Beerappa,
Aged about 26 years,
Occ: Household work,

Respondent No.3 to 6 are
R/o. EWS colony, 6th cross,
Jalinagar, Ayyappa Temple
opposite, Devaraj Urs
Extension, Davanagere.

7. Lokappa
S/o. Late Nagappa
@ Buldikatti Kolkar Nagappa,
Aged about 43 years,
R/o.Old Barampura
Extension, Harihar Town,
Davanagere District.
8. Shantamma
D/o. Late Nagappa @
Buldikatti Kolkar Nagappa,
Aged about 40 years,
R/o.Hale Barampura Extension,
Harihar Town, Davanagere District.
**(R1 to R7 - Exparte,
R8 - N.R.Adv.)**

FINAL ORDER

The petitioners have filed this petition under Order XX Rule 18 read with Section 54 of the Code of Civil Procedure, seeking a final decree in terms of the preliminary decree dated 23.11.2021 passed in O.S. No.207/2016, for partition of the suit properties by metes and bounds.

2. The factual Matrix of the petitioners case unfolds as under;

The petitioners had filed O.S. No. 207/2016 seeking partition and separate possession of their

2/7th share in the suit properties against the respondents. The suit was decreed, holding that the petitioners and respondents are entitled to equal share in item No.3 as suit schedule A property and suit schedule B property. However, the claim of the petitioners in respect of item No.1 and 2 of the suit 'A' property was dismissed.

3. Notice was issued to the respondents and duly served, and respondent No.2 to 8 have entered appearance through counsels but not filed objections to the petition. Respondent No.1 has remained absent.

4. There are no materials placed before this Court to show that the preliminary decree passed by this Court has been challenged, nor is there any order of stay of the present proceedings.

5. By order dated 07.01.2023, the Taluka Surveyor was appointed as Court Commissioner to inspect, measure and suggest the division of item No.2 of the FDP schedule property bearing Sy No.101/2 measuring 5.28 acres. The Taluk Surveyor inspect and measure the property and submitted his report on 25.05.2023.

6. By ordering dated 13.03.2023, the PDO of Nadiharalahalli village was appointed as court commissioner in respect of item No.1 of the FDP

schedule property bearing No.207. The PDO inspected the property and submitted report on 21.09.2024. The petitioners have filed memo stating that Eastern Portions in item No.1 of the FDP schedule property may be allotted to petitioner No.1 and 2. and with respect to item No.2 of the FDP schedule property, block No.7 may be allotted to petitioner No.1 and block No.6 may be allotted to petitioner No.2. The respondents have not filed any objection to the Commissioner report.

7. Heard the arguments of the learned counsel for the petitioners and respondents.

8. After careful analysis and perusal of the preliminary decree, the Commissioner's report, and the rival claims of the parties, the following points arise for consideration:

- I. Whether the petitioners have made out sufficient grounds to draw the final decree in their favor as prayed, in terms of the preliminary decree passed in OS No.207/2016 dated 23.11.2021.?
- II. What order?

9. After giving its anxious consideration and after carefully perusing the documents produced at this stage of the matter, this court answers the aforesaid points as under:

Point No.1 : In the **Affirmative**.

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

REASONS

10. **Point No.1:** It is an undisputed fact that the petitioners filed a suit for partition and separate possession in O.S. No. 207/2016, which was decreed by judgment and decree dated 23.11.2021, holding that the plaintiffs and defendants were entitled to equal shares in item No.3 of suit A schedule property and suit B schedule property. There is no material before the court to show the pendency of any appeal or stay of the judgment and decree passed by this court.

11. Both Court Commissioners submitted their respective reports stating that prior notice was issued to the parties and that they visited the suit properties.

The Taluka Surveyor, in his report, stated that prior to visiting the spot he had issued notice to all parties. He thereafter conducted the survey and effected division as reflected in the sketch and report submitted by him.

12. The PDO appointed in respect of the suit item No.1 of the petition schedule also submitted his report stating that prior to visiting the spot he had issued notice to the parties he visited the spot. He thereafter conducted the survey and effected division as reflected in the sketch and report submitted by him.

13. In accordance with the preliminary decree passed by this Court, both Commissioners conducted the survey and submitted their respective reports along with mahazar (panchanama) and sketches, stating that the suit properties had been divided and the respective shares demarcated into separate blocks in terms of the preliminary decree, based on the available survey and

revenue records.

14. The Commissioners' reports were taken on record. The respondents have not made any effort to examine the Commissioners to substantiate their objections. On perusal of the reports, it is evident that the Taluka Surveyor prepared the PT sheet and sketch and demarcated the respective blocks of each share, and the parties present have signed the panchanama. Similarly, the PDO has also prepared the sketch demarcating the respective blocks and drawn the panchanama.

15. Admittedly, respondents have not filed any objections to the main petition or to the Commissioners' reports. Further, there are no materials on record to reject the reports of both Commissioners. The petition item No.2 properties are available for equal division, and there are no contrary materials to disbelieve or discredit the report of the Taluka

Surveyor.

16. Similarly, the report submitted by the PDO shows that the petition item No.1 property is available for equal division. Thus, there are no contrary materials to disbelieve or discredit the report.

17. Having regard to the measurements and nature of the suit properties, as well as the recommendations made by the Taluka Surveyor and the PDO, there is no impediment for this Court to accept the reports, as the mode of division suggested therein is feasible.

18. Now coming to the aspect of allotment of blocks, considering the long pendency of the present litigation, which has been continuing for several decades, and the consequent hardship, uncertainty, and delay suffered by the parties, this Court is of the view that equitable and just partition requires careful balancing of all relevant circumstances.

19. In order to ensure complete justice between the parties and to avoid further prolongation of the dispute, it is necessary that due consideration be given while effecting actual division so as to allot a proper, convenient, and better portion to the petitioner, having regard to the nature, location, and utility of the properties, thereby meeting the ends of justice in its true sense.

20. The petitioners submitted no objection to the commissioners report. In respect of item No.1 property bearing Khata No.235, the portions in the Commissioner's sketch have not been given separate block numbers. Therefore, for the purpose of clear identification and implementation of the final decree, the seven portions shown in the sketch may be referred to as portion No.1 to 7, proceeding from East to West.

21. The petitioners have requested that the Eastern portions be allotted to them. As there are no objections

from any of the respondents, the Eastern most portion can be allotted to petitioner No.1 and the portion immediately adjoining it on the Western side can be allotted to petitioner No.2. The remaining 5 portions may be allotted successively, proceeding from East to West to respondent No.1. Respondent No.2, respondent No.3 to 6 collectively, respondent No.7 and respondent No.8.

22. In respect of item No.2 of the FDP schedule property bearing Sy.No.101/2 measuring 5.28 acres, the Taluk Surveyor has divided the property into 7 blocks. The petitioners have sought allotment of block No.7 to petitioner No.1 and block No.6 to petitioner no.2. No respondent has objected to the said request. Therefore, block No.7 can be allotted to petitioner No.1 and block No.6 can be allotted to petitioner No.2. The remaining block i.e., block No.1 can be allotted to respondent No.1, block No.2 can be allotted to respondent No.2,

block No.3 can be allotted to respondent No.3 to 6 collectively, block No.4 can be allotted to respondent No.7 and block No.4 can be allotted to respondent No.8. Accordingly, this Court answers Point No.1 in the **Affirmative.**

23. Point No.2:- For the forgoing reasons, this court proceeds to pass the following;

O R D E R

“The petition filed by the petitioners under Order XX Rule 18 read with Section 54 of the Code of Civil Procedure is hereby allowed on the following terms:

The reports of the Court Commissioners, dated 21.09.2024 and 25.05.2023 submitted by the PDO, Nadiharalahalli Gram Panchayath and Taluk Surveyor are here by accepted.

In respect of item No.1 of the FDP schedule property, the Eastern most portion namely portion No.1 is allotted to petitioner No.1. The portion immediately adjoining portion No.1 on the Western side, namely portion No.2 of item No.1 of the FDP schedule property, is allotted to petitioner No.2.

Portion No.3 of item No.1 of the FDP schedule property is allotted to respondent No.1.

Portion No.4 of item No.1 of the FDP schedule property is allotted to respondent No.2

Portion No.5 of item No.1 of the FDP schedule property is allotted collectively to respondent No.3 to 6.

Portion No.6 of item No.1 of the FDP schedule property is allotted to respondent No.7.

Portion No.7 of item No.1 of the FDP schedule property is allotted to respondent No.8.

In respect of item No.2 of the FDP schedule property, block No.7 shown in the Taluk Surveyor's sketch is allotted to petitioner No.1.

Block No.6 of item No.2 of FDP schedule property is allotted to petitioner No.2.

Block No.1 of item No.2 of FDP schedule property is allotted to respondent No.1.

Block No.2 of item No.2 of FDP schedule property is allotted to respondent No.2.

Block No.3 of item No.2 of FDP schedule property is collectively allotted to respondent No.3 to 6.

Block No.4 of item No.2 of FDP schedule property is allotted to respondent No.7.

Block No.5 of item No.2 of FDP schedule property is allotted to respondent No.8.

The office is hereby directed to draw the final decree in the above terms.

The sketches and reports submitted by both Court Commissioners shall form part and parcel of the final decree.

No order as to costs.

Since the petition item No.2 property is assessed to land revenue payable to the Government, the office is directed to communicate this final decree to the Deputy Commissioner, Davanagere, for making necessary entries in the revenue and survey records.”

(Dictated to the Stenographer directly on the computer, transcript is corrected and signed by me and then pronounced by me in the open court on this 01st day of August, 2026).

Sd/-

**I Addl. Civil Judge & JMFC,
Harihar.**

