

Case called out.

Both parties absent.

No representation from either side.

**ORDER ON IA No.1 FILED BY THE PETITIONERS UNDER
ORDER 26 RULE 13 R/W SECTION 54 AND SECTION 151
OF CPC**

This IA has been filed by the counsel for the petitioner and prays to appoint a court commissioner with necessary assistance of competent surveyor for the purpose of partition and division of the schedule property detailed in the preliminary decree passed in OS no.10/2018 and grant such other reliefs as this court deems fit to grant under the circumstances of the case.

2. In support of the IA, petitioner no.1 filed affidavit and stated that as per the preliminary decree passed in OS no.10/2018 final decree has to be passed in this case. It is stated that according to the preliminary decree passed in OS no.10/2018 petitioners are entitled for 1/6th share in the plaint B schedule properties and in order to draw final decree, it is essential to appoint the court commissioner for the purpose of partition of 'B' schedule properties into 6 equal shares with reference to good and bad soil and convenience of

enjoyment of the petition schedule properties and to allot as well deliver possession of one such share to the petitioners as per the preliminary decree. Hence prays to allow the IA.

3. Respondents no.2, 3, 4 and 6 put their appearance through their respective advocates and have not opted to file any objections to the IA no.1.

4. Heard on IA no.1. Perused the records. The below mentioned points arisen for my consideration.

POINTS

1) Whether the petitioners made out grounds to consider IA No.1 and grant the relief as prayed for?

2) What order?

5. Perused the material particulars available on record. On hearing the counsel for both parties and on perusal of the material particulars available on record, I proceed to answer the above points is as hereunder.,

Point no.1 : In the affirmative.

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

REASONS

6. Point no.1: This FDP petition has been filed by the petitioners and prayed to draw final decree as per the preliminary decree passed in OS no.10/2018.

7. Petitioners are the plaintiffs in OS no.10/2018. As per the preliminary decree passed in OS no.10/2018, petitioners

are entitled for 1/6th equal share in the suit B schedule properties.

8. In order to draw final decree it is essential to divide and allocate the share of the plaintiffs with the assistance of the competent surveyor. Moreover respondent no.2, 3, respondent no.4 and respondent no.6 have put their appearance through their advocates but have not filed any objections to IA no.1, as such in order to draw final decree, it is essential to appoint court commissioner for the purpose of partition division of the schedule properties as detailed in preliminary decree passed in OS no.10/2018. Petitioners made out grounds to consider the IA and grant the relief as prayed for. Hence I proceed to answer point no.1 in the affirmative.

9. Point no.2: For the reasons as discussed above in Point No.1, I proceed to pass the following.,

ORDER

IA No.1 filed by the counsel for the petitioners under Order XXVI rule 13 r/w Sec.54 and Sec.151 of CPC is hereby allowed.

Advocate, member of Puttur Bar Association is appointed as the court commissioner for the purpose of partition and division of the plaint schedule properties as per the preliminary decree passed in OS no.10/2018 with reference to good and bad soil and convenience for enjoyment and to submit his report with the

assistance of competent surveyor attached to the office of Tashildar of Puttur Taluk.

Counsel for the petitioners is directed to suggest the name of the court commissioner.

Court commissioner fee is fixed at Rs.10,000/- tentatively and the same has to be prayed by the petitioners.

Court commissioner is directed to take the memo of instructions if any filed by the counsel for both parties and on considering the same directed to conduct the commissioner work.

Counsel for both parties directed to file memo of instructions in the next date of hearing.

For to deposit the court commissioner fee and process fee.

Call on:08-06-2026.

1st ASCJ & JMFC
Puttur, D.K.,