

**IN THE COURT OF THE III ADDITIONAL SENIOR CIVIL  
JUDGE AND J.M.F.C. HUBBALLI**

**Dated 29<sup>th</sup> day of July -2026**

**Present:- Sri. Ramesh S. Ganiger,  
B.Com., L.L.M.,  
III Addl. Senior Civil Judge & J.M.F.C.,  
Hubballi.**

**FDP No.12/2024**

|                      |            |                                                                                                                                                                                                    |
|----------------------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PETITIONERS:-</b> | <b>01.</b> | <b>Sri Churchill @ Ravikumar<br/>S/o Prakash Rao Kalavakuri.<br/>Age: 42 Yrs, Occ: Pvt. Work,<br/>R/o. Raghavndra Colony,<br/>Shanti Nagar, Keshwapur,<br/>Hubballi, Dis: Dharwad-<br/>580023.</b> |
|                      | <b>02.</b> | <b>Smt. Gretta W/o Amith Adhav<br/>Age: 38 Yrs, Occ:Teacher,<br/>R/o. Raghavndra Colony,<br/>Shanti Nagar, Keshwapur,<br/>Hubballi, Dis: Dharwad-<br/>580023.</b>                                  |
|                      |            | <b>(By Sri C.S.N Advocate)</b>                                                                                                                                                                     |
|                      |            | <b>V/s</b>                                                                                                                                                                                         |

|                    |            |                                                                                                                                                                              |
|--------------------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>RESPONDENTS</b> | <b>01.</b> | <b>Smt. Mangala W/o Late Prakashrao Kalavakuri Age: 66 Yrs, Occ:Rtd Teacher, R/o. Raghavndra Colony, Shanti Nagar, Keshwapur, Hubballi, Dis: Dharwad-580023.</b>             |
|                    | <b>02.</b> | <b>Sri Jobshinwell @ Shekhar S/o Late Prakashrao Kalwakuri, Age: 37 Yrs, Occ: Principal, R/o. Raghavndra Colony, Shanti Nagar, Keshwapur, Hubballi, Dis: Dharwad-580023.</b> |
|                    | <b>03.</b> | <b>Smt Johnness Julies W/o Santosh Taredal Age: 36 Ys, Occ: Housewife, R/o. C/o.S. Y. Byahatti, H.No.283, Near Govt. School, Shivanand Nagar, Nava Nagar, Hubballi.</b>      |
|                    |            | <b>(Respondent No.1 by Sri M.S.N Advocate Respondent No.2 and 3 exparte)</b>                                                                                                 |

**ORDER ON PETITION FILED UNDER ORDER 20 RULE 18 (2)**  
**of CPC**

It is the petition filed by the petitioners no. 1 and 2 seeking to draw the final decree in respect of suit B Item No. 1 to 3 and 4 (a) to 4 (e) properties as per preliminary decree passed in OS No. 128/2020.

**2. The brief facts of the petitioners case are as under**

According to the petitioners, they are the plaintiffs in O.S No. 128/2020 and they have filed the said suit against the present respondents who are defendants seeking partition and separate possession in respect of suit schedule properties in respect of their shares. The said suit was decreed on 05.06.2023 and allotted 1/5th share each to them. In spite of judgment and decree, the defendants could not file any appeal before the Hon'ble Appellate Court. So the judgment passed by this court

reaches finality. After passing judgment and decree, the defendants could not come forward and ready to effect the partition as per preliminary decree. So in order to obtain their separate shares as per shares allotted in preliminary decree, they constrained to file this petition.

3. In spite of serving the notice, the respondent no. 1 was appeared through counsel but could not choose to file any kind of objections. The respondent no. 2 and 3 remains absent. As per preliminary decree, it is necessary to demarcate the suit Schedule item No.1 to 3 house, open site and commercial shop properties and suit schedule amount and jewelries as described in suit schedule Item No.4(a) to 4(e). In the course of proceedings, under the interlocutory application filed by the petitioners, the court commissioner by name Sri. S.P.Kanthi advocate cum evaluator was appointed to submit the commissioner report in respect of suit

schedule item No.1, 2, 3 properties. Another Sri I.B. Mullanavar advocate court commissioner has been appointed to get the information regarding availability of FD amount and jewelries as the accounts mentioned in the concerned banking authorities and financial authorities of schedule 4a to 4e properties.

4. As the commissioner report made by Sri I.B.Mullanavar advocate, there is no amount and jewelry in the concerned financial institutions and banking officials. Go through the preliminary decree in respect of 4(a) to 4(d) properties, it reveals that suit schedule item No.4(a) is the FD amount of ₹3,00,000, which bearing FD No.517 kept in Chemmanur jewelers at Hubballi in the name of Prakashrao Z.Kalavakuri. The said amount has been withdrawn by the plaintiff no. 1 who is petitioner no. 1 herein as a legal heir. Further suit schedule item No.4 (b) is the FD amount of ₹ 1,00,000

under FD No.12515 which kept in Chemmanur Jewellers at Hubballi is also withdrawn by the petitioner No.1 as a legal heir. Further Item No.4(c) is the FD amount of ₹5,00,000 bearing FD No.12268 which kept in Chemmanur Jewellers at Hubballi has been withdrawn by defendant No.2 who is respondent No.2 herein. The suit schedule item No.4 (d) is an amount of ₹ 5,00,000 FD in FD No.12269 which kept in Chemmanur Jewellers at Hubballi and same amount has been received by the respondent no. 2 who is petitioner no. 2 herein as a legal heir. Suit schedule item No.4(e) is the 6 tola gold valued ₹2,75,000 has been withdrawn by defendant No.3 who is respondent no. 3 and worth of said jewelry is ₹ 1,60,000/-. So for these kind of preliminary decree is concerned already whatever amount and jewelry is available in the preliminary decree are withdrawn by the petitioner no. 1, respondent no. 2 and 3. So the said aspect could be considered on allotment of shares.

5. Another court commissioner Sri Somanath b Kanthi BE.Civil.L.L.B Advocate cum Consulting Engineer has submitted the commissioner's report in respect of suit No. 1, 2, 3. Go through his report, suit schedule item No. 1 consists of ground floor and first floor house properties. Suit No. 2 is the commercial shop. Suit schedule item No. 3 is the open space. Now the said commissioner made a report that the suit schedule Item No.1 is valued ₹ 57,80,000, Schedule Item No. 2 valued ₹ 10,79,000 and Item No. 3 is could not valued.

6. In the course of arguments, learned counsel for the petitioners filed I.A. No.6 under Section 151 of CPC along with memo and submits kindly to allot suit schedule Item No. 1 in favour of petitioner No.1 , 2 and respondent no. 1, kindly allot Item No. 2 i.e. Shop No.F18 situated at Neeligin road to the respondent no. 3

and Item No.3 i.e. CTS No.3B/137, Plot No.206 situated at Keshwapura, Hubballi City has to be allotted to respondent no. 2. The learned counsel for the respondent no. 1 has submitted no objections to accept the said IA No. 6 and also memo. So for this memo and very IA No. 6 and affidavit of petitioner no. 1 are concerned, as per the valuation, these petitioner no. 1 and 2 and respondent no. 1 are intended to retain suit schedule item No.1 property in their favour and they consented to allot Suit schedule item No. 2 in favour of respondent no. 3, Suit schedule item No.3 in favour of respondent no. 2 and already they utilized proposed suit schedule item No.4(a) to (e) properties as per the preliminary decree and they have further no dispute about the said aspects.

7. Considering these all materials on record and commissioner report are concerned, the following points arises for my consideration.

**:POINTS:**

**1. Whether the petitioners have made out sufficient grounds to draw the final decree?**

**2. What order?**

8. Learned petitioner counsel and respondent no. 1 were argued.

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

Point No.1 : In the Affirmative.

Point No.3 : As per the final order,  
for the following:

**:: R E A S O N S ::**

10. **POINT NO.1:** Admittedly, petitioner No.1 and 2 have filed OS No. 128/2020 against respondent no. 1 to 3 seeking partition and separate possession. The said suit was decreed on 05.06.2023 and all petitioner and respondent no. 1 to 3 would get 1/5th each in the suit schedule properties. As a preliminary decree and report made by Sri I.B.Mullannavar advocate court

commissioner is concerned, now suit Schedule item No.4 (a) to 4(e) properties are not available for partition. But already the suit schedule item No.4(a) and 4(b) amount has been utilized by petitioner no. 1. The amount mentioned in the suit Schedule item No.4(c) and 4(d) have been utilized by the respondent no. 2. The 6 tola gold mentioned in the petition schedule 4(e) has been utilized by the respondent no. 3. The said aspect has not been disputed by present petitioner and respondent no. 1, who are appearing in this case. The court commissioner Sri. Somnath P. Kanthi, advocate cum civil engineer has visited the suit schedule item No.1 to 3 and his report shows that suit schedule item No. 1, house property is valued ₹57,80,000. Suit schedule item No. 2 has valued ₹ 10,79,000 , suit schedule item No. 3 is not valued and there is no demarcation. So he could not value the said property. After submitting the commissioner report herein the petitioner no. 1 and 2 and respondent no. 1 and their

counsels submits to kindly allot suit schedule item No.1 in favour of petitioner No.1, 2 and respondent no. 1, suit schedule item No. 2 in favour of respondent no. 3 and suit schedule item No. 3 in favour of respondent no.2.

11. Admittedly respondent no.2 and 3 who are the brother and sister of petitioner no. 1 and 2 and children of respondent no. 1 are not before the court inspite of serving notices of this case. But they have 1/5th share each in the suit schedule properties. So under these circumstances the nature of commissioner report is concerned, the suit schedule Item No.1 to 3 are not possible to demarcate and the court commissioner has valued the suit Item No. 1 to 3. So petitioner No.1 , 2 and respondent no. 1 have consented to allot the suit item No.3 property in favour of respondent no. 2. Further they consented to allot suit schedule Item No. 2 commercial property in favour of respondent no. 3. They intended to

retain suit Item No.1 of B schedule. So under these circumstances when physically the property could not able to demarcate. So under such circumstances on the basis of value, the suit schedule Item No. 1 to 3 would be allotted to both petitioners and respondents along with taking into note of already jewelry and cash amount taken by the petitioner no. 1, respondent no. 2 and 3 in respect of 4(a) to 4(e) properties. So under these circumstances, as the say of petitioner No.1 and 2 and their counsel and respondent No. 1 and her counsel are concerned, they intended to retain Suit Schedule Item No.1 in B schedule. The worth of said property is valued ₹.57,80,000/-. So petitioner No.1, 2 and respondent No.1 have their equal share in that extent. So taken into their equal shares are concerned so they each would have ₹19,26,666/- on said property and their share value is that amount. So herein taken into consideration item No.2, if it allotted to the respondent no. 3, the worth of said property is ₹

10,79,000. The said property allotted to the respondent no. 3 definitely her worth is less than whatever share allotted to the petitioner no. 1 and respondent no. 1. So considering the circumstances herein already respondent no. 3 taken Suit Schedule B item No.4(e) i.e., 6 tola gold worth of ₹2,75,000. The same is clearly reflected in preliminary decree. So considering the said ₹2,75,000 and ₹ 10,79,000 are concerned, the total value of respondent no. 3 and her share is Rs.13,54,000/-. So the extent Rs.19,26,666 allotted to the petitioner no. 1, 2 and respondent no. 1 are concerned, the respondent no. 3 is entitled ₹ 5,72,666 from the above petitioner no. 1, 2 and respondent no. 3 for equity of her share to the above said petitioners and respondent No.1. Furthermore, herein there is no value mentioned in respect of Item No.3. So at this juncture go through the preliminary decree, herein the value of the said property is ₹10 Lakh. So taken into consideration of said value and further already the

respondent no. 2 had utilized suit schedule item No.4 (c) and 4(d) total worth 10,00,000/-. So he get more than sufficient in respect of shares whatever allotted to the petitioner no. 1, 2 and respondent no. 1.

12. It is further discussed that, petitioner no. 1 has utilized Suit schedule item No.4(a) and 4(b) total ₹.4,00,000/-. Considering these factual aspects, it is proper and appropriate to direct petitioner no. 1 to pay ₹ 4,00,000 to the respondent no. 3. Remaining ₹1,72,666 jointly paid by the Petitioner no. 2 and respondent no. 1 to the respondent no. 3. So under the rule of equity, the shares as per their value allotted to both parties. So under these circumstances the suit schedule Item No. 1 of B schedule allotted to the petitioner no. 1, 2 and respondent no. 1 jointly. Suit Schedule B Item No. 2 allotted to the respondent no. 3 along with that respondent no. 3 would get ₹5,72,666/-. Out of that ₹.4,00,000 has to be paid by

the petitioner no. 1 and ₹ 1,72,666 jointly paid by the petitioner No.2 and respondent no. 1 to the respondent No.3. Petition schedule Item No.3 open plot allotted to the respondent No.2. Accordingly petitioners have made out sufficient grounds to draw the decree and **I answered point No.1 in the affirmative.**

13. **POINT NO.3:** For the foregoing reasons, I proceed to pass the following;

**:O R D E R:**

Petition filed by the petitioners under Order XX Rule 18 CPC is hereby allowed in part.

Commissioner reports submitted by the court commissioners are accepted.

Petition Schedule B Item No. 1 allotted jointly in favour of petitioner no. 1, 2 and 3.

B Schedule Item No. 2 allotted to respondent no.3 with payable amount of ₹ 5,72,666/ (five lakhs seventy two thousand, six hundred and sixty six only) by the petitioner No.1, 2 and respondent No.1. Out of the said payable amount ₹.4,00,000/- (four lakhs only) payable by the petitioner no. 1 to the respondent no. 3. Remaining ₹1,72,666/- (One lakh, seventy two thousand, six hundred and sixty six only) jointly payable by the petitioner no. 2 and respondent no. 1 to the respondent No.3.

The petition schedule B Item No. 3 allotted to the respondent no. 2.

Petition in respect of suit schedule 4 (a) to 4 (e) is dismissed.

Office is directed to draw the final decree accordingly.

Court commissioner report in respect of  
suit schedule B item No.1 to 3 is part and  
parcel of final decree.

(Dictated to Adalat AI, typed and cause tittle by Stenographer, corrected and signed  
by me and then pronounced by me in the open court on 29<sup>th</sup> day of July- 2026).

(Sri. Ramesh S. Ganiger)  
III Addl. Senor Civil Judge and JMFC  
Hubballi