

ORDER ON 26 RULE 9 OF CPC

1. The applicant has filed IA under Order 26 Rule 9 of CPC to appoint an advocate to survey the land which is left out by her deceased husband and share allotted to her husband in lieu of maintenance and appoint Taluk Surveyor to measure and file report in respect of land.

2. Other side given sufficient opportunity but neither present nor any representation. Hence to avoid the delay in disposing of this petition objection taken as not filed. She states in the affidavit she had filed maintenance suit and she is being awarded in maintenance later on execution was filed her husband appeared and submitted he would give away schedule properties which comes in his share. But her husband and family members filed suit making her as party and promised he would give away in FDP. In the mean time he died and in this manner I and children became his legal heirs. Hence for this reason she prays to allow the application.

3. On perusal of Order sheet other side is not at all present and there is also no representation from his side. Hence this court after giving sufficient opportunities pleased to take objection as not filed and proceed in accordance with law. On being inquired from the Petitioner he submits that there is no appeal or revision or stay etc., pertaining to this

FDP or against the Judgment and decree involved in this FDP proceedings. Hence in view of above reason I proceed to pass the following ;

ORDER

The IA filed Under Order 26 Rule 9 of CPC is hereby allowed.

Advocate by name Sri.ASM and Taluk Surveyor are appointed as Court Commissioner and their Commissioner Fee is fixed for Rs.700/- each.

Call for memo of instructions by 27-04-2019.

(Dictated to the Stenographer, directly on computer and corrected by me and then pronounced in the Open court on this 15th April 2019.)

(Santhosh Srivastava)
Prl. Civil Judge and JMFC,
Arsikere.