

ORDERS ON IA U/O 26 RULE 13 OF CPC

The petitioner has filed IA under order 26 rule 13 of C.P.C prays for appointment of Taluk surveyor and PWD engineer as a court commissioner for effecting the partition.

2. In the accompanying affidavit of IA. the petitioner submitted that her father by name Boregowda has filed OS.No.22/1973, said suit came to be decreed. After that her father died and being the legal heirs of the deceased, she preferred the present application for effecting the partition as preliminary decree passed in OS No.22/1973, to appoint the Taluk surveyor and PWD engineer as a court commissioner. It is very much necessary to execute the decree. Hence prays for allow the application.

Though the respondent appeared before the court, have not filed any objection to the said application.

Heard by the petitioner counsels.

I have gone through the entire materials on record, it clearly discloses that the father of petitioner filed OS No.22/1973 and same was decreed. As preliminary decree passed in OS No.22/1973, she sought appointment of court commissioner for effecting the partition. Further on perusal of the decree, the suit properties are landed properties and house property. As properties are landed properties and house property, the appointment of the Taluk surveyor and PWD engineer is very much necessary for effecting the partition. In this case though the respondent appeared before the court, have not filed any objection to the said application. Hence in the interest of justice, this court opines that the application filed by the petitioner is deserves to be allowed. Hence, I proceed to pass the following order.

::O R D E R::

IA. No.I filed by the petitioner under Order 26 rule 13 of CPC is hereby allowed.

The Taluk surveyor and PWD engineer is appointed as a court commissioner for effecting the partition as per the preliminary decree passed in OS.No.22/1973.

The court commissioner fee is tentatively fixed of Rupes.1,500/-.

It is directed to the petitioner to pay the court commissioner fee in the next date of hearing without fail.

**(R.Mahesha)
Civil Judge and J.M.F.C,
Holenarasipura.**