



**IN THE COURT OF THE CIVIL JUDGE AND JMFC.,
BYADGI**

PRESENT: Sri. Suresh Wagganavar

M.A., L.L.B.(Spl)

Civil Judge & JMFC, Byadgi

Dated: 03rd Day of February -2026

F.D.P No.15/2024

1. Smt.Paravva W/o Mallappa Purapur
Age: 42 years, Occ: Agriculture and Household work,
R/o: Hirehalli, Tq: Byadgi, Dist: Haveri
and another one.

(By Sri.N.B.B., Advocate)

....Petitioners

-Vs-

1. Sri.Yallappa S/o Bangareppa Lakkammanavar
Age: 55 years, Occ: Agriculture,
R/o: Hirehalli, Tq: Byadgi, Dist: Haveri
and others.

(By Sri.S.S.B., Advocate

...Respondents



PARTIES TO THE IA NO.II

1. Smt.Paravva W/o Mallappa Purapur
R/o: Hirehalli, Tq: Byadgi, Dist: Haveri
and another one.

.... **Applicants/Petitioners**

VS

1. Sri.Yallappa S/o Bangareppa Lakkammanavar
R/o: Hirehalli, Tq: Byadgi, Dist: Haveri
and others.

.... **Opponents/Respondents**

ORDERS ON I.A.No.II

This application is filed by the petitioners U/o XXVI Rule 13, R/w Sec.151 of CPC., with prayer to appoint the Court-Commissioner i.e., ADLR Byadgi, to effect partition and separate possession as per Preliminary decree passed in OS.No.213/2017 dated: 16.08.2021 to meets the ends of justice & equity.

2. In the affidavit the petitioners have stated that they have filed suit for partition and separate possession against the



defendants in OS.No.213/2017. The said suit was decreed. The plaintiffs are entitled for 1/7th share each in the suit properties. Hence, prays to appoint Court Commissioner.

3. Per contra, the counsel for respondent No.1 to 5 have filed objection to the main petition and memo for adoption the objection to IA.No.II. Wherein it is contended that the respondents have preferred appeal bearing No.19/2021 before Hon'ble Senior Civil Judge Byadgi. Thereafter the respondents have preferred appeal before Hon'ble High Court of Karnataka in RSA.No.100640/2025. The said appeal is pending for consideration. Hence, prays to reject the application.

4. Heard from petitioner side.

5. The point that would arise for my consideration is:

"Whether appointment of commissioner to effect partition and separate possession as per Preliminary decree passed in OS.No.213/2017 dated:



16.08.2021 is necessary?

6. My answer is in the **Affirmative**, for the following;

: REASONS :

7. The petitioners have produced Judgment and Decree in OS.No.213/2017. On perusal of above said document, it reveals that the plaintiffs are entitled for 1/7th each share in the suit properties. As per the say of respondents, there is a RSA.No.100640/2025 is pending. But the respondents have not produced any stay order from the Hon'ble High Court of Karnataka. Hence under these circumstances, it is obligation on the part of this Court to proceed with the case sort of attained finality. In the background it is needless to mention that, if Court Commissioner as prayed by petitioners is not appointed there will be failure of duty on the part of this court. Appointment of Court Commissioner to effect partition and separate possession in respect of suit schedule property is necessary. Hence, I answer the above **Point in the**



Affirmative and proceed to pass the following:

ORDER

I.A.No.II filed by the petitioners U/o XXVI Rule 13 R/w Sec.151 of CPC, is hereby allowed.

The ADLR, Byadgi is hereby appointed as court commissioner to effect partition and separate possession of suit schedule properties by metes and bounds in terms of Preliminary decree passed in OS.No.213/2017, dtd: 16.08.2021.

The petitioners are hereby directed to deposit the Commissioner fee of Rs.2,000/-.

Office is directed to issue Commissioner Warrant subject to deposit Commissioner fee & if P.F paid.

(Dictated to the stenographer directly on computer, then corrected and pronounced by me in the open court on this the 03rd day of February -2026).

Sd/-
(SURESH WAGGANAVAR)
Civil Judge & JMFC,
Byadgi.