

KAHV310001732020



Presented on : 16-03-2020

Registered on : 16-03-2020

Decided on : --

Duration :

ORDERS ON I.A.No.I and II

The petitioner No.3 has filed I.A.No.I U/o. 54 of C.P.C., seeking to appoint Taluka Surveyor as court commissioner to demarcate the petitioners' shares in "A" to "F" suit schedule properties and I.A.No.II U/o. 26 Rule 13 of C.P.C., seeking to

appoint an advocate as court commissioner to demarcate their shares in “G” and “H” suit schedule properties in terms of preliminary decree passed on O.S.No.34/2014 on the file of this court.

2. In spite of due service of notice of petition, the respondents No.1 and 2 are remained absent and though respondents No.3 appear in person has not filed objections to said applications.

3. I have heard the arguments of petitioners counsel and perused material available on record.

4. In the affidavit annexed to application the applicant deposed that the petitioners had filed suit for partition and separate possession of their respective shares in the suit schedule properties in O.S.No.34/2014 on file of this court and preliminary decree was passed in the said suit by declaring 1/7th share to petitioner No.1 to 4 and accordingly prayed that it is necessary to appoint Taluka Surveyor as well as an advocate as court commissioner to demarcate their shares in the suit schedule properties.

5. On perusal of the records, it is forthcoming that, the item No. “A” to “F” properties are agricultural land and item No. “G” and “H” properties are the house properties situated within the

limits of Honkana Grama Panchayat. On perusal of preliminary decree in O.S.No.34/2014, the petitioner No.1 to 3 have been allotted with 1/7th share each in the suit schedule properties. The item No. "A" to "F" properties are being agricultural lands, the Taluka Surveyor is a competent person to demarcate the shares of the petitioners in the agricultural lands. Similarly, item No. "G" and "H" properties have been Grama Tana properties which consists of house and vacant space and as such an advocate is a competent person to demarcate the petitioners shares. Unless Taluka Surveyor and an Advocate appointed as court commissioners, it is impossible to demarcate the shares of petitioners in the suit schedule property feasibly. For scientific demarcation of the shares of the petitioner No.1 to 3, it is necessary to appoint Taluka Surveyor and an Advocate as court commissioner as sought in the I.A.No.I and II. Accordingly, the following:-

ORDER

I.A.No.I filed U/s 54 of C.P.C., and I.A.No.II filed U/o 26 Rule 13 of C.P.C., by the petitioner No.3 are hereby allowed.

Consequently, the Taluka Surveyor, Hangal is appointed as commissioner to demarcate the shares of the parties in respect to "A" to "F" suit schedule properties. His Commissioner fee is fixed at Rs.1,000/-.

Likewise, an Advocate is appointed as court commissioner to demarcate the shares of the petitioners in “G” and “H” suit schedule properties and his commissioner fee is fixed at Rs.1000/-.

For suggestion of name of an Advocate as court commissioner.

Call on 19-03-2022.

Civil Judge & JMFC.,
Hangal.