



Presented on : 14-02-2024
Registered on : 14-02-2024
Decided on : 06-06-2026
Duration : 2 years, 3 months, 21 days

**IN THE COURT OF III ADDL. SR. CIVIL JUDGE AND
JMFC, RANEBENNUR**

**PRESIDED OVER BY SRI. MAHANTESH BHUSAGOL, B.A,
(Law) LL.B.**

III Addl. Sr. Civil Judge & J.M.F.C, RANEBENNUR.

Dated this : 6th day of June 2026

FDP NO.4/2024

1. Smt Hanumavva W/o Basappa Ditur,
Age : 63 Years, Occ : Household work,
R/o : Gnganarasi, Tq: Harihar, Dist: Davanagere.
2. Irappa S/o Giriyappa Talawar @ Tirakavvanavar,
Age : 58 Years, Occ : Agriculture,
R/o : Irani, Tq: Ranebennur, Dist: Haveri.
3. Smt Lalitavva W/o Jatteppa Yereshimi,
Age : 53 Years, Occ : Household work,
R/o : B cross, Bhasha Nagar, Betur road, Davanagere,
Tq: & Dist: Davanagere.

.....Petitioner

(R/by Shri. CHK, Adv.)

V/s

1. Duragappa S/o Hanumappa Talawar,
Age : 63 Years, Occ : Agriculture,
R/o : Irani, Tq: Ranebennur, Dist: Haveri.
2. Smt Hanumavva W/o Huligappa,
Age : 58 Years, Occ : Household,
R/o : Choudavvana Devastanad Camp,
Hosakundawad, Tq & Dist: Davanagere.

3. Sri Smt. Kotravva W/o Hanumappa Hirebidari,
Age : 58 Years, Occ : Household work,
R/o : Malanayakanahalli, Tq: Ranebennur,
- 4 Smt. Basavva W/o Dharmashilappa Halasabalu,
Age : 53 Years, Occ : Household work,
R/o : Nagenahalli, Tq: Ranebennur.
5. Yallappa S/o Hanumappa Talawar,
Age : 48 Years, Occ : Agriculture ,
R/o : Irani, Tq: Ranebennur, Dist: Haveri.
6. Hanumappa Tirakappa Talawar @ Choudakkanavar
(Since dead their LR's)
- 6A. Smt. Hanumavva W/o Hanumappa Talawar @
Choudakkanavar,
Age : 63 Years, Occ : Household work,
R/o : Irani, Tq: Ranebennur.
- 6B. Manjunath Hanumappa Talawar @ Choudakkanavar,
Age : 37 Years, Occ : Agriculture ,
R/o : Irani, Tq: Ranebennur.
- 6C. Tirakappa Hanumappa Talawar @ Choudakkanavar,
Age : 35 Years, Occ : Agriculture ,
R/o : Irani, Tq: Ranebennur.
- 6D. Bharamappa Hanumappa Talawar @ Choudakkanavar,
Age : 35 Years, Occ : Agriculture ,
R/o : Irani, Tq: Ranebennur.
- 6E. Kenchavva W/o Kotreshappa,
Age : 42 Years, Occ : Household work,
R/o : Agasanahalli, Tq: Jagaluru, Dist: Davanagere.
- 6F. Smt. Premakka W/o Shivappa Doddamani,
Age : 40 Years, Occ : Household work ,
R/o : NandiHaralahalli, Tq: Ranebennur

7. Smt Hanumavva W/o Ningappa,
Age : 77 Years, Occ : Household work ,
R/o : 6th cross, Bapuji Nagar, Shivamogga,
Tq: & Dist: Shivamogga.
8. Smt. Duragavva W/o Basappa Huchhappanavar,
Age : 72 Years, Occ : Household work ,
R/o : Hanagawadi, Tq: Harihar, Dist: Davanagere.
9. Smt. Shantavva W/o Halappa Gadlappar,
Age : 62 Years, Occ : Household work ,
R/o : Alur, Tq: & Dist: Davanagere.
10. Smt. Ratnavva W/o Hanumanthappa Doddamani,
Age : 57 Years, Occ : Household work ,
R/o : Nadiharalahalli, Tq: Ranebennur.
11. Durugappa S/o Yallavva Talawar @ Tirukavvanavar,
Age : 72 Years, Occ : Agriculture ,
R/o : Jali Nagar, Kavalettu, Tq: Ranebennur.
12. Bheemappa S/o Yallavva Talawar @ Tirukavvanavar
(Since dead their LR's)
- 12A. Smt. Girijavva W/o Bheemappa Talawar @ Tirukavvanavar,
(Dead)
13. Fakkirappa S/o Yallavva Talawar @ Tirukavvanavar,
(Since dead his LR's)
- 13A. Smt. Nagavva W/o Fakkirappa Talawar @ Tirukavvanavar,
(Since dead his LR's)
- 13B. Basappa Fakkirappa Talawar @ Tirukavvanavar,
Age : 52 Years, Occ : Agriculture ,
R/o : Nalawagal, Tq: Ranebennur.

.....Respondents

**(Respondent No.1, 11, 13(B) R/by Shri. HTM, Adv.,
Respondent No.2, 3 and 5 Exparte,
Respondent No.6(A to F) R/by Shri. NBA Adv.,
Respondent No.7 to 10 R/by Shri. NVC Adv.,)**

:: ORDER ::

This is a Final Decree Petition filed by the petitioner Under Order 20 Rule 18 R/w/Sec.54 and 151 of CPC.

2. The brief facts of the petitioners case /are that:-

The petitioners had filed OS No.48/2021 on the file of this Court for partition and separate possession of their shares by metes and bounds. After trial the said suit came to be decreed on 31-01-2024 awarding 1/4th share to the petitioner No.1 to 3 in the suit schedule "B" property. Further, it decreed that, defendant/respondent No.1 to 5 are entitled to 1/4th share in the suit schedule "B" property, defendant No.7 to 10 are entitled to 1/4th share in the "B" and "C" suit schedule properties and respondent No.11 to 13b are entitled to 1/4th share in the suit schedule "B" property and preliminary decree was passed accordingly. After passing of the judgment and drawing the preliminary decree, the petitioners are repeatedly asked respondents to divide the schedule properties, as per the terms of preliminary decree, but, respondents refused to effect the partition in the petition schedule 'B' properties. Hence petitioners filed this petition praying to pass final decree in terms of preliminary decree passed in OS No.48/2021 of this court.

3. After institution of this petition, notice on petition was issued to the respondents. The respondent No.1, 11, 13(b), 6(a) to (d), 6(1e), 7 to 10 have appeared

through their respective counsels. Respondent No.2, 3 and 5 are placed as *exparte*. But, the respondents did not choose to file objections to the main petition.

4. This court by allowing IA No.V has appointed the taluk surveyor ADLR Ranebennur.

5. Later on, after issuing the commission warrant, the ADLR Ranebennur submitted his report along with sketch before the Court.

6. After filing of the commissioner report to the Court, the petitioner and respondents have not filed any objection to the court commissioner report.

7. Heard. Perused the records in entirety.

8. On the basis of the above said pleadings, the following points arise for my consideration are:-

1) Whether the petitioners have made out grounds for drawing the final decree in respect of the petition schedule properties ?

2) Whether the petitioners are entitle for the relief as sought in the petition?

3) What order or decree?

9. My findings on the above points are as follows:

Point No.1	: In the Affirmative.
Point No.2	: In the Affirmative.
Point No.3	: As per final orders for the following:-

REASONS

10. POINT NO.1 :- It is the case of the petitioners that they had filed a suit in O.S No.48/2021 against the respondents and same was decreed on 31.01.2024 and passed preliminary decree, as per the said decree plaintiff No.1 to 3 are entitled to 1/4th share, defendant No.1 to 5 are entitled to 1/4th share in the item No.1 of the suit schedule B properties. Further, the defendant No.7 to 10 are entitled to 1/4th share in the item No.1 and 2 of suit schedule B properties and defendant No.11 to 13b are entitled to 1/4th share in the item No.1 of suit schedule B property and preliminary decree was passed accordingly. Hence, the petitioners have filed the present petition for final decree proceedings for effecting the partition and separate possession in respect of the petition schedule properties.

11. Even though, the respondent No.1, 11, 13(b), 6(a) to (d), 6(1e), 7 to 10 appeared before the court through their counsel but, do not choose to filed objection to the main petition. Rest of the other respondents have placed as ex-parte. Hence, the petitioners prays to allot their share by metes and bounds.

12. The petitioners and respondents have not entered into the witness box and they have not got marked any documents in their favour. Even they have not challenged the court commissioner report, sketch and its enclosers produced before the court.

13. It is worth to note here that, as per the judgment and decree passed in O.S.No.48/2021, the petitioners have filed the present petition and this court has appointed the ADLR of Taluaka Surveyor, as Court Commissioner to assist the court for demarcating the shares of the petitioners and respondents, in respect of the agricultural landed property. Accordingly, the court commissioner has conducted the spot inspection and separated the shares of the petitioners and respondents and has submitted the report with sketch maps to the court.

14. The learned counsel for petitioner argued before the court that, as per the order passed by this court on I.A No.V, the court the Court was appointed. Accordingly, the court commissioner conducted the spot inspection by demarcating the share of the petitioner and respondent on PT Sheet and submitted the reports to the court and this court by considering the same may pass the final decree as sought by the petitioner. Both the parties did not file their objection to the Commissioner report.

15. After considering the court commissioner report, it is very clear that before making local inspection of the item No.1 of suit schedule B property, he had issued notice to the parties and in their presence he had carried out inspection work and accordingly in order to assist the court separated the property in totally 5 strips in the item No.1 of the suit schedule B property. Hence, this court by

considering the same is of the opinion that the same report is in accordance with law and the same can be accepted.

16. As per the court Commissioner report, he had separated the item No.1 of suit schedule B property bearing Sy No.201/2 in five strips by showing block No.I to V in sketch map and its report. Out of that, block No.I, measuring 00 acre 17 gunta formed channel by the Upper Tunga project. The block No.II showing towards eastern side of block No.I measuring 1 acre 3 gunta jointly shown in favour defendant No.7 to 10. Its towards eastern side shown block No.III measuring 1 acre 3 gunta jointly shown infavour of defendant No.11 to 13(b). Towards its eastern side shown as block No.IV measuring 01 acre 3 gunta jointly shown in favour of plaintiff No.1 to 3. Further extreme eastern side measuring 01 acre 3 gunta jointly shown in favour of defendant No.1 to 5.

17. The item No.2 of the suit schedule B property bearing VPC No.178 of Irani village Gram Panchayat as per preliminary decree it allotted to the share of defendant No.7 to 10, i.e., respondent No.7 to 10 herein towards their 1/4th share , but, in the said property not allotted any share either the petitioners or respondent No.1 to 5 and 11 to 13(b). As the said property hold as property of defendant No.7 to 10. Therefore, as per preliminary decree the item No.2 of suit schedule B property allotted in favour of defendant/respondent No.7 to 10.

18. Since, both the parties have not filed any objections to the court commissioner report and its enclosures, hence, this court after considering the material on record, this court is of the opinion that, the court commissioner report is in accordance with the law and same has to be accepted.

19. After considering the report and its enclosures of the commissioner, this court is of the opinion that, towards western side shown as block No.II in sketch measuring 1 acre 3 gunta is jointly allotted to the share of respondent No.7 to 10 by their 1/4th estate of the share in the item No.1 of the suit schedule B property.

20. Towards eastern of block No.II, shown in sketch as block No.III measuring 1 acre 3 gunta is jointly allotted to the share of respondent No.11 to 13(a and b) by their 1/4th estate of the share in item No.1 of the suit schedule B property.

21. Towards eastern of block No.III shown in sketch as block No.IV measuring 1 acre 3 gunta is jointly allotted to the share of petitioner No.1 to 3 by their 1/4th estate of the share in the item No.1 of the suit schedule B property.

22. Towards extreme eastern side shown as block No.V shown in sketch measuring 1 acre 3 gunta is jointly allotted to the share of respondent No.1 to 5 by their 1/4th estate of the share in the item No.1 of the suit schedule B property.

23. As discussed above, the road is also provided to the petitioners and respondents, as per Section 13 of Easement of necessity Act in order to reach their allotted properties for ingress and egress, which is not caused harm to the other side. After considering all these facts and circumstances of the case, this court is of the opinion that the final decree has to be drawn as sought by the petitioner. With these observations, this court is **answered point No.1 in the Affirmative.**

24. Point No.2 :- The petitioners have made out grounds for allowing the petition, then this court is of the opinion that, they are entitle for final decree as per Preliminary decree passed in OS No.48/2021. With these observations, this point is answered in the **Affirmative.**

25. Point No.3 :- For the aforesaid discussion on points No.1 and 2, this Court proceeds to pass the following:

ORDER

The petition filed by the petitioner under Order XX Rule 18 and Sec.54 of CPC, is hereby allowed.

The petitioners No.1 to 3 are jointly allotted their 1/4th share in the item No.1 of the suit schedule B property, towards eastern side of block No.III, shown in sketch as block No.IV measuring 1 acre 3 gunta is jointly

allotted to them, as per preliminary decree.

The respondent No.7 to 10 are jointly allotted their 1/4th share in the item No.1 of the suit schedule B property, towards western side shown in the sketch, as block No.II, measuring 1 acre 3 gunta is jointly allotted to them, as per preliminary decree.

Further, the respondent No.7 to 10 are also jointly allotted their share in the item No.2 of the suit schedule B property i.e., VPC No.178 of Irani Gram Panchayat , as per preliminary decree.

The respondent No.11 to 13(a and b) are jointly allotted their 1/4th share in the item No.1 of the suit schedule B property, towards eastern side of block No.II, shown in sketch as block No.III measuring 1 acre 3 gunta is jointly allotted to them, as per preliminary decree.

The respondent No.1 to 5 are jointly allotted their 1/4th share in the item No.1 of the suit schedule B property, towards extreme eastern side, shown in the sketch map as block No.V, measuring 1 acre 3 gunta is jointly allotted to them, as per preliminary decree.

Since, as per preliminary decree passed in OS No.48/2021 in item No.2 of the suit schedule B property holds that, the said property belongs to defendant No.7 to 10, hence, no share is allotted to the petitioners

No.1 to 3, respondent No.1 to 5 and respondent No.11 to 13(a and b).

The road is provided to the petitioners as per the existence for ingress and egress to reach their property.

The commissioner report submitted by the court commissioner ADLR in respect of petition schedule property along with sketch and other enclosures shall be part and parcel of this final report.

Office to draw Final decree accordingly on non-judicial stamp paper.

Office is directed to draw final decree after proper court fee is paid by the parties.

(Dictated to the Stenographer directly on the computer, computerized by her, corrected by me and then pronounced in the Open Court in this 6th day of June 2026)

(Mahantesh G.Bhusagol)
III Addl. Senior Civil Judge &
JMFC, Ranebennur.