

ORDER ON I.A. No.2

The application is filed by the petitioner under Order XXVI Rule 13 read with Section 151 of the Code of Civil Procedure, seeking appointment of Court Commissioners to effect partition in respect of the suit schedule properties in terms of the preliminary decree passed RA No.103/2013 and modified decree passed by this court.

2. The petitioners filed a suit for partition and separate possession in OS No.322/2011 and the same came to be decree in part holding that, the petitioner is entitle for 1/10th share in the suit item No.1 to 11 & 13 properties. The same was challenged in RA No.103/2013, wherein the same was allowed in part holding that, the petitioners are entitle for 1/10th share in the all suit properties. By order dated 31.01.2026, the preliminary decree was modified in view of death of original defendants No.1 & 2.

3. IA relates to partition of suit schedule properties, which suit item No.1 to 11 are agricultural land assessed to payment of land revenue and item No.12 property, which is a house property, by metes and bounds.

4. Though the respondents have appeared before the Court, they have neither filed objections nor contested the application. However, admittedly, there is no material on record to show that any order of stay has been granted in the said appeal.

5. In view of the Karnataka Amendment to Section 54 of the Code of Civil Procedure, where the decree is for partition and separate possession of an undivided estate assessed to land revenue, such partition has to be carried out through the Revenue Authorities. Therefore, for suit schedule item No.1 to 11 are agricultural properties, appointment of the Taluka Surveyor as Court Commissioner is necessary.

6. So far as suit item No.12 house property bearing property No.13 is concerned, division by metes and bounds requires appointment of City Surveyor.

7. In the absence of any stay to the operation of the preliminary decree and there being no objections from the respondents, the application deserve to be allowed.

Hence, I proceed to pass the following:

ORDER

I.A. No.2 filed by the petitioners under Order XXVI Rule 13 read with Section 151 of CPC is hereby allowed.

The Taluka Surveyor, Ranebennur, is hereby appointed as Court Commissioner to inspect, prepare, and effect partition of the suit item No. 1 to 11 agricultural properties in accordance with the preliminary decree passed in RA No.103/2013 and modified decree dated 31.01.2026 and to submit a report along with a sketch and blocks.

He also directed to submit the market value of each properties.

The petitioner shall bear necessary expenses for divisions as per KLR Act.

City surveyor, Ranebennur is hereby appointed as Court Commissioner to inspect, prepare, and effect partition of the suit item No.12 house bearing property No. 13 by metes and bounds in accordance with the preliminary decree passed in RA No.103/2013 and modified decree dated 31.01.2026 and to submit a report along with a sketch and blocks.

He also directed to submit the market value of each blocks.

The Commissioner's fee payable to the City surveyor is fixed at Rs.2,000/- (Rupees Two Thousand only) tentatively.

The Office is directed to issue commission warrants to both the Commissioners along with copies of this order and the judgment and preliminary decree passed in RA No.103/2013 and modified decree dated 31.01.2026 subject to payment of necessary process fee.

The petitioner shall deposit the Commissioner's fee and necessary PF by 10.02.2026.

Sd/-

Prl Civil Judge & JMFC,
Ranebennur.

