

ORDER

KAHV520001822025



IN THE COURT OF PRL. CIVIL JUDGE & JMFC., AT
RANEBENNUR.

Present : Sri. ADITHYAKUMAR.H.R., B.A.L.L.B.

Prl. Civil Judge & JMFC., Ranebennur.

Dated on this the 02nd Day of July -2026

FDP NO. 03/2025

Petitioner: Smt. Yallamma W/o Suryappa
Kyatari, Age: 67 years,
Occ: Housewife, R/o: Lingadahalli,
Tq: Ranebennur, Dist: Haveri.

(Rep. By Sri. R.J.P., Adv.,)

V/s.

Respondents :

1. Smt. Girijamma W/o Shivappa
Kyatari, Age: 69 years,
Occ: Housewife, R/o: Karur,
Tq: Ranebennur, Dist: Haveri.
2. Sri. Mailarappa S/o Mallappa
Maligera, Age: 58 years,
Occ: Agriculture, R/o: Lingadahalli,
Tq: Ranebennur, Dist: Haveri.
3. Sri. Basavanneppa S/o Mallappa
Maligera, Age: 54 years,
Occ: Agriculture, R/o: Lingadahalli,
Tq: Ranebennur, Dist: Haveri.
4. Smt. Gangamma W/o Shivappa
Kalludundi, Age: 52 years,
Occ: Housewife, R/o: Medleri,
Tq: Ranebennur, Dist: Haveri.

(R-2 Rep. by Sri. P.R.K. Adv.)
(R-1, 3 & absent)

FINAL ORDER

The petitioner has filed this petition under Order XX Rule 18 read with Section 54 of the Code of Civil Procedure, seeking a final decree in terms of the preliminary decree dated 07.12.2023 passed in O.S. No. 90/2022, for partition of the suit property by metes and bounds.

2. The factual matrix of the petitioner's case unfolds as under;

The petitioner had filed O.S. No. 90/2022 seeking partition and separate possession of her 1/5th share in the suit properties against the respondents. The suit was decreed, holding that the petitioner and respondents are entitled to 1/5th each share in the suit properties and the same has now attained finality. Accordingly, the petitioner has initiated final decree proceedings seeking partition and division of the suit properties by metes and bounds and allotment of her respective share.

3. Notice was issued to the respondents and duly served, and respondent No.2 has entered appearance through counsel but not filed objections to the petition. Other respondents remained absent and uncontested the case.

4. There are no materials placed before this Court to show

that the preliminary decree passed by this Court has been challenged, nor is there any order of stay of the present proceedings.

5. By order dated 11.07.2025, the Taluka Surveyor was appointed as Court Commissioner to effect division of the suit item No.1 to 4 properties, and an Advocate from Ranebennur Bar was appointed as Court Commissioner to effect division of the suit item No.5 & 6 properties in accordance with the modified preliminary decree. Both Commissioners submitted their respective reports along with mahazar (panchanama) and sketches, stating that the properties were divided and the respective shares demarcated as per the modified preliminary decree based on the available survey and revenue records. In view of no objection, the Commissioner's report was taken on record by order dated 11.06.2026.

6. Heard the arguments of the learned counsel for the petitioner and respondent No.2.

7. After careful analysis and perusal of the preliminary decree, the Commissioner's report, and the rival claims of the parties, the following points arise for consideration:

I. Whether the petitioner has made out

sufficient grounds to draw the final decree in her favor as prayed, in terms of the preliminary decree passed in OS No.90/2022 dated 07.12.2023.?

II. What order?

8. After giving its anxious consideration and after carefully perusing the documents produced at this stage of the matter, this court answers the aforesaid points as under:

- Point No.1 : In the **Affirmative.**
Point No.2 : As per final order for the following;

REASONS

9. Point No.1:

It is an undisputed fact that the petitioner filed a suit for partition and separate possession in O.S. No. 90/2022, which was decreed by judgment and decree dated 07.12.2023, holding that the petitioner and respondents are entitled to 1/5th share in the suit schedule properties. There is no material before the court to show the pendency of any appeal or stay of the judgment and decree passed by this court.

9.1. Both Court Commissioners submitted their respective reports stating that prior notice was issued to the parties and that they visited the suit properties. The Taluka Surveyor, in his

report, stated that prior to visiting the spot he had issued notice to all parties and on 30.09.2025 he visited the site. The plaintiff and defendants were absent. He thereafter conducted the survey and effected division as reflected in the sketch and report submitted by him.

9.2. The Advocate Commissioner appointed in respect of the suit item No.5 & 6 properties also submitted his report stating that prior to visiting the spot he had issued notice to the parties and on 26.10.2025 he visited the spot. The plaintiff and defendants were absent. He thereafter conducted the survey and effected division as reflected in the sketch and report submitted by him.

9.3. In accordance with the preliminary decree passed by this Court, both Commissioners conducted the survey and submitted their respective reports along with mahazar (panchanama) and sketches, stating that the suit properties had been divided and the respective shares demarcated into separate blocks in terms of the preliminary decree, based on the available survey and revenue records.

9.4. The Commissioners' reports were taken on record. The respondents have not made any effort to examine the

Commissioners to substantiate their objections. On perusal of the reports, it is evident that the Taluka Surveyor prepared the PT sheet and sketch and demarcated the respective blocks of each share, and the parties present have signed the panchanama. Similarly, the Advocate Commissioner has also prepared the sketch demarcating the respective blocks and drawn the panchanama.

9.5. Admittedly, respondents have not filed any objections to the main petition or to the Commissioners' reports. Further, there are no materials on record to reject the reports of both Commissioners. The suit item No.1 to 4 properties are available for equal division, and there are no contrary materials to disbelieve or discredit the report of the Taluka Surveyor.

9.6. Similarly, the report submitted by the Advocate Commissioner shows that the suit item No.5 & 6 properties are available for equal division, and also stated that, 5 ft. width common road is reserved for all the parties for their ingress and egress to approach their respective properties. Thus, there are no contrary materials to disbelieve or discredit the report.

9.7. Having regard to the measurements and nature of the suit properties, as well as the recommendations made by the

Taluka Surveyor and the Advocate Commissioner, there is no impediment for this Court to accept the reports, as the mode of division suggested therein is feasible.

9.8. Now coming to the aspect of allotment of blocks, considering the long pendency of the present litigation, which has been continuing for several decades, and the consequent hardship, uncertainty, and delay suffered by the parties, this Court is of the view that equitable and just partition requires careful balancing of all relevant circumstances.

9.9. In order to ensure complete justice between the parties and to avoid further prolongation of the dispute, it is necessary that due consideration be given while effecting actual division so as to allot a proper, convenient, and better portion to the petitioner, having regard to the nature, location, and utility of the properties, thereby meeting the ends of justice in its true sense.

9.10. The petitioner submitted no objection to the commissioners report. The Taluka surveyor has recommended Block No.2 of each suit item No.1 to 4 properties to the petitioners. Block No.1 properties were recommended to the respondents. The advocate also submitted the report

demarcating each share of the suit item No.5 & 6 properties. The petitioner also submitted no objection to the same. On perusal of the report of the advocate it shows that, he demarcated both properties in 5 divisions.

9.11. However, considering the shape and measurement of each blocks, this court is of the opinion that, Block No.1 & 2 of VPC No.609 property is allotted to the respondent No.4. Block No.3 & 4 of VPC No.609 property is allotted to the respondent No.3. Block No.5 of VPC No.609 & Block No.1 of the VPC No.608 property is allotted to the respondent No.2. Block No.2 & 3 of VPC No.608 property is allotted to the respondent No.1. Block No.4 & 5 of VPC No.608 property is allotted to the petitioner. Accordingly, this Court answers Point No.1 in the **affirmative**.

10. Point No.2:- For the forgoing reasons, this court proceeds to pass the following;

ORDER

“The petition filed by the petitioner under Order XX Rule 18 read with Section 54 of the Code of Civil Procedure is hereby allowed on the following terms:

1. The reports of the Court Commissioners, dated 08.01.2026 submitted by the Taluka Surveyor and dated 01.06.2026 submitted by the Advocate

Commissioner, are hereby accepted.

2. The petitioner is allotted **Block No. II** in respect of Item Nos. 1 to 4 of the decreed schedule properties, as shown in the sketch submitted by the Court Commissioner/Taluka Surveyor.

3. Respondents No.1 to 4 are collectively allotted **Blocks No.2** in respect of Item Nos.1 to 4 of the decreed schedule properties, as shown in the sketch submitted by the Court Commissioner/Taluka Surveyor.

3. The petitioner is allotted **Block No. 4 & 5** of VPC No.608 property, as shown in the sketch submitted by the Court Commissioner/Advocate.

4. The respondent No.1 is allotted **Block No. 2 & 3** of VPC No.608 property, as shown in the sketch submitted by the Court Commissioner/Advocate.

5. The respondent No.2 is allotted **Block No. 5** of VPC No.609 & Block No.1 of VPC No.608 property, as shown in the sketch submitted by the Court Commissioner/Advocate.

6. The respondent No.3 is allotted **Block No. 3 & 4** of VPC No.609 property, as shown in the sketch submitted by the Court Commissioner/Advocate.

7. The respondent No.4 is allotted **Block No. 1 & 2** of VPC No.609 property, as shown in the sketch submitted by the Court Commissioner/Advocate.

8. The office is hereby directed to draw the final decree in the above terms.

9. The sketches and reports submitted by both Court Commissioners shall form part and parcel of the

final decree.

10. No order as to costs.

11. Since the suit item No.1 to 4 properties are assessed to land revenue payable to the Government, the office is directed to communicate this final decree to the Deputy Commissioner, Haveri, for making necessary entries in the revenue and survey records.”

(Dictated to the Stenographer directly on the computer, transcript is corrected and signed by me and then pronounced by me in the open court on this 02nd day of July, 2026).

**Prl. Civil Judge & JMFC,
Ranebennur.**