

ORDERS

This IA No. 1 has been filed by the petitioner U/o 26 R 13 r/w Sec. 54 of CPC praying to appoint Taluka surveyor as Court Commissioner to prepare sketch by visiting the petition schedule properties to enable the Court to draw the final decree in terms of the preliminary decree passed in OS 122/2014 dt.05-02-2018 by this Court.

After filling of this FDP petition the respondent No. 9 has placed his appearance through their counsel Sri. NVC, and filed objection to the IA. R 6 has appeared in person but not file objection, rest of the R1(a), (c), 1 to 8, remained absent despite due service of process. There is no appeal is pending against the said judgment & decree.

In this petition, it is stated that after the preliminary decree passed in OS No.122/2012 dated 05.02.2018 and wherein, the suit of the plaintiff is decreed in part with cost, the plaintiffs No. 1 to 3, 5, 6, 8 and defendant No. 9 are entitled to get share of 1/11th each in all the suit properties, the defendant No.7 is

entitled to 1/11 th share only in the suit properties, the defendant No.7 is entitled to 1/11 th share only in the suit itme No.(G) to (K) house properties, and the D No. 2, 4 together entitled to 1/11 th share in all the suit schedule properties and the rest of the defendants No. 1,3,6 and 9 are entitled to get a share of 1/11th each in all the suit schedule properties all the above will get the above will get the above shares in the share to be allotted to deceased Hanumappa Dodmani @ Talawar, that the D No. 1, 3, 6 and 9 are entitled to equal 1/5 th share in all the suit schedule properties along with the above share allotted to them.

As per the preliminary decree, the plaintiff and defendants can get partition and separate possession of their share by metes bounds in the afore said properties through due process of Court as prescribed U/s 54 and U/o 20 R 18 of CPC.

Now the petitioners have sought for division of their share by appointing Court Commissioner and to hand over their respective shares by metes and bounds.

In the objection filed by the R No. 9 has contended that the petitioners have no share

although decreed the suit by this Court it is stated that, since the 9th defendant has filed a Civil Misc. Petition No. 4/2018 it is pending on the file of this Court, so that, until disposal of such petition, the R No. 9 has sought for dismissal of the present FDP petition.

On perusal of records, there is no any appeal/stay by any appellate Courts, so, that it is duty of the Court to draw up final decree in terms of preliminary decree and it is well settled that such petition if filed U/o.20 Rule 18 or U/s.54 of CPC to the parties who are entitled to get their properties divided by metes and bounds, it is only a reminder to the Court to draw up final decree. Therefore, I proceed to pass the following;

ORDER

U/o.20 Rule 13 R/w 54 of CPC the Taluka Surveyor Ranebennur is hereby appointed as a Court Commissioner to submit the report after preparing necessary sketch in respect of petition

1st schedule item No.1(a) to 1(f) properties as per preliminary decree.

An Advocate from the Bar Association, Ranebennur is hereby appointed as a Court Commissioner to submit report of suit 2nd schedule item No.II (g) to (K) which are VPC of Gudguru village to enable this Court to make partition of the petition schedule properties to hand over shares of both petitioners and respondents respectively as per decree OS No.122/2012 dated 05.02.2018 in respect of petition schedule properties.

Rs.1,000/- each as a commissioner fee for the Taluka Surveyor and Advocate commissioner tentatively fixed.

Office to issue Commissioner Warrant after Commissioner fee is deposited.

To suggest the name of the Commissioner.

Call again,

(Dictated to the Court hall typist, corrected and pronounced by me in the Open Court on this the 26th day of July 2019.)

**III Addl.Sr.Civil Judge & JMFC,
Ranebennur.**

Again c/o learned counsels present, Sri. PV Kulkarni advocate is appointed as commissioner to do the commission work as per the above order, issue commission warrant accordingly, after payment of the commission fee, r/by 28-08-2019.

III Addl.Sr.CJ and JMFC, RNR.