

ORDER ON COMMISSIONER
REPORT

As per order dated 12.11.2025, the Taluka surveyor and Sri. S.D.D. advocate were appointed as court commissioners to make divisions of suit properties in terms of modified preliminary decree dated 05.07.2025 in the light of preliminary decree passed in OS No.215/1989.

Later on 30.01.2026, the Taluka surveyor submitted his report. On 28.02.2026 the advocate also submitted his report.

Respondents No.2 to 22 filed objection to the commissioner report submitted by the advocate contending that, the court commissioner has not

properly conducted the divisions as per the preliminary decree and no divisions were made in respect of suit item No.2 of schedule 'B' property.

Suit schedule 'A' properties are agricultural properties and same were required to be allotted of 1/9th each share to the Plaintiff and Defendants No.2 to 9.

The divisions made by the Taluka surveyor is just and proper and no valid grounds made out to reject his report. The postal receipts and report show that, prior to survey the notice was issued and respondents failed to appear before the commissioner.

Hence, there is no valid reasons to reject his commissioner report.

Accordingly, the commissioner report submitted by the Taluka surveyor in respect of suit schedule 'A' properties is hereby accepted and taken on record.

So far, report submitted by the advocate it is evident that, despite the decree was passed in respect of both suit house properties, he made divisions only in respect of item No.1 house property and he has not made any commissioner work in respect of suit item No.2 house property.

He stated in the report that, the decree is only in respect of suit item No.1 property and hence, he made survey works only in respect of that property.

The respondents contended that, since modified preliminary decree is in respect of all suit properties, the suit item No.2 property is also required for divisions.

Perused the original preliminary decree, wherein it was held that, the Plaintiff is entitle for partition and separate possession except the residential house in the suit schedule 'B(2)' property.

It is true that, in the modified preliminary decree, no specific findings were given in respect of suit schedule 'B(2)' property.

Admittedly, the modified preliminary decree was passed with consonance of original preliminary decree. The decree was modified only in respect of quantum of share and no findings were given rights and entitlement of share in the suit item No.2 of schedule 'B' property. Thus, no specific findings in respect of that property in the modified preliminary decree is not a ground to contradict or over turn the foundational findings

already settled in the original preliminary decree.

Accordingly, the objection raised by the respondents No.2 to 22 is not sustainable and Commissioner reports submitted by the advocate is also accepted and taken on record.

It is noticed that, the suit item No.1 of schedule 'B' property measures 408.86 sq. mtr. The parties are entitle for 45 X 42 Sq. mtr. The petitioner submitted no objection to the report. The property as shown in the divisions are available for equal physical divisions and the same can be allotted to the parties.

Accordingly, there is no grounds to reject the both reports submitted by both court commissioners.

Call for final arguments by;
01.04.2026.

Prl. Civil Judge & JMFC,
Ranebennur.

