



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,**

**AT: ALAND**

Present: Shri. **Abdul Rahaman Pathan,**

B.A. LL.M.,

C/C Senior Civil Judge & JMFC.,  
ALAND

**F.D.P. NO. 6/2024**

Dated this the 25<sup>th</sup> day of April 2026

**PETITIONER:**

Nagaraj S/o Shivasharanappa  
Sanmukh Age: 35 years, Occ:  
Agriculture & Private service,  
R/o Hiroli, Tq: Aland, Dist:  
Kalaburagi. Now residing at  
1034/B, Geethanjali Layout,  
HAL IIIrd Stage, New  
Thippasandra, Bengaluru.

**(By Shri. B.A.D. Adv.)**

**// Versus //**

**RESPONDENTS:**

1. Vijayalaxmi W/o Shivasharanappa  
Sanmukh, Age: 62 years, Occ:  
Agriculture & Household,
2. Hanumesh S/o Shivasharanappa  
Sanmukh, Age: 33 years, Occ:  
Agriculture & Pri. Service.

Both are R/o 1-11/5, Station  
road, Opp: Lahoti Petrol Pump,  
Bhalagat Compound, Khuba Plot,  
Kalaburagi.



3. Rajashri W/o Santoshkumar Sonnad, Age: 42 years, Occ: Household, R/o Jai Jui Nagar, Solapur, Maharashtra.
4. Preeti W/o Deepak Bhandari, Age: 40 years, Occ: Household, R/o Ilakal, Tq: Hongund, Dist: Bagalkote.

**(R1 Ex-Parte)  
(R2 & 4 In Person)  
(R3 by Shri. S.B.P. Adv.,)**

### **ORDER ON MAIN PETITION**

The petitioner/Plaintiff filed instant petition U/Section 54 of the Code of Civil Procedure to draw final decree as per preliminary decree passed in the O.S. No. 113/2022.

#### **2. The averments made in the petition are as under:**

It is the case of petitioner that, he filed O.S. No. 113/2022 for a relief of partition and separate possession of his share in the Suit Schedule Properties. The said suit came to be decreed on 02.03.2024 allotting 1/5<sup>th</sup> share to his. Despite specific decree, respondents did not allot his share. Thus, he left with no alternative filed instant petition to draw final decree as per preliminary decree passed in O.S. No. 113/2022.

3. It appears from Order Sheet dated. 03.03.2025 that, despite service of cause notice respondent No. 1 has not appeared as such, has been placed ex-parte. It also appears that, respondent No. 2 and 4 appeared personally and submitted no objection to draw final decree. It further



appears that, respondent No. 3 though appeared through his counsel but has not filed objection to main petition as such, there is no objection to main petition.

4. It appears from material on record that, Court Commissioner has been appointed and submitted report. It appears from Order Sheet dated. 02.03.2026 that learned counsel for petitioner and respondent No. 3 filed memos to allot lands shown as Block No. I and II in the report of Court Commissioner. It appears from Order Sheet dated. 13.03.2026 that, despite sufficient time respondent No. 2 and 4 have not filed objection to Commissioner report as such, objection on their behalf is taken as not filed.

5. On the basis of petition averments and documents placed on record, following points arise for my consideration:

**1. Whether the petitioners are entitle for the relief claimed?**

**2. What Order or Decree?.**

6. Heard learned counsel appearing for petitioner and respondent No. 3. Despite sufficient time, respondent No. 2 and 4 did not argue as such, argument on their behalf is taken as nil. Perused material placed on record. My answer to above points is as under:

**Point No. 1: In the Affirmative**

**Point No. 2: As per final order for the following:**



**:: REASONS ::**

**7. POINT No. 1:-** The instant petition is filed by petitioners seeking bifurcation of their share in the Petition Schedule Properties as per preliminary decree passed in O.S. No. 113/2022 dated, 02.03.2024. There is no objection to instant petition as such, inquiry has not been conducted in this case.

8. This Court carefully perused Certified Copy of decree in OS No. 113/2022. Wherein it appears that, petitioner/plaintiff has been awarded with 1/5<sup>th</sup> share in the petition schedule properties. There is no material on record to show that, said judgment and decree have either been set aside or reversed as such, have attained finality.

9. It appears from material on record that, during pendency of petition, Court Commissioner is appointed to measure Petition Schedule Property and filed report. The petitioner and respondent No. 3 have filed memos dated, 02.03.2026 to allot land shown as Block No. I in favor of petitioner and land shown as Block No. II in favor of respondent No. 3. The remaining respondents neither filed objection to main petition nor to Commissioner report. This Court carefully perused Court Commissioner report. Wherein it appears that, Court Commissioner has divided Item No. 1 to 3 of the Petition Schedule Properties as Block No. I to V with almost equal extent. There is no objection to said report. It is well settled law that, the Court Commissioner has authority to propose the scheme of partition and it is the discretion of the Court to allot the properties as per the report of the Commissioner to parties concerned. There is no material



on record to show that, demarcation made by commissioner is unequal. In such eventuality, this Court finds no impediment to accept the report of the Court Commissioner and to allot the shares accordingly. In view of above discussion, this Court is of opinion that, petitioner is entitle for final decree as prayed. Considering relationship between parties to this petition, it would not be just to impose cost on any of the parties to this petition. **Accordingly, I answer Point No. 1 in the Affirmative.**

**10. Point No. 2 :** In view of discussion and conclusion arrived at Point No. 1, this Court proceeds to pass following:

#### **ORDER**

**The petition filed by petitioner U/Section 54 of the Code of Civil Procedure is hereby ALLOWED.**

**It is ordered and decreed that, petitioner is allotted land bearing Sy. No. 21/3 measuring 1.33 acres shown as Block No. I, land bearing Sy. No. 5 measuring 3.28 acres shown as Block No. I and land bearing Sy. No. 62 measuring 5.11 acres shown as Block No. I in the Sketch annexed to the Court Commissioner Report.**

**It is also ordered and decreed that, respondent No. 3 is allotted land bearing Sy. No. 21/3 measuring 1.33 acres shown as Block No. II, land bearing Sy. No. 5 measuring 3.28 acres shown as Block No. II and land bearing Sy. No. 62 measuring 5.11 acres shown as Block No. II in the Sketch annexed to the Court Commissioner Report.**



**It is further ordered and decreed that, respondent No. 1 is allotted land bearing Sy. No. 21/3 measuring 1.33 acres shown as Block No. III, land bearing Sy. No. 5 measuring 3.28 acres shown as Block No. III and land bearing Sy. No. 62 measuring 5.11 acres shown as Block No. III in the Sketch annexed to the Court Commissioner Report.**

**Furthermore, it is ordered and decreed that, respondent No. 2 is allotted land bearing Sy. No. 21/3 measuring 1.32 acres shown as Block No. IV, land bearing Sy. No. 5 measuring 3.28 acres shown as Block No. IV and land bearing Sy. No. 62 measuring 5.11 acres shown as Block No. IV in the Sketch annexed to the Court Commissioner Report.**

**It is also ordered and decreed that, respondent No. 4 is allotted land bearing Sy. No. 21/3 measuring 1.32 acres shown as Block No. V, land bearing Sy. No. 5 measuring 3.28 acres shown as Block No. V and land bearing Sy. No. 62 measuring 5.12 acres shown as Block No. V in the Sketch annexed to the Court Commissioner Report.**

**The map prepared by the Court Commissioner shall be treated as part and parcel of this decree.**

**Parties to bear their own costs.**

**Draw final decree accordingly.**

[Dictated to the stenographer directly on laptop, corrected by me and pronounced in the open Court, this the 25<sup>th</sup> day of April 2026]

**(Abdul Rahaman Pathan)**  
II Additional Senior Civil Judge  
& JMFC., Kalaburagi &  
C/C Senior Civil Judge & JMFC,  
ALAND



**ANNEXURE**

**LIST OF WITNESSES EXAMINED FOR PETITIONER:**

----- Nil -----

**LIST OF DOCUMENTS MARKED FOR PETITIONER:**

----- Nil -----

**LIST OF WITNESSES MARKED FOR RESPONDENTS:**

----- Nil -----

**LIST OF DOCUMENTS MARKED FOR RESPONDENTS:**

----- Nil -----

Date: 25-04-2026

Place: Kalaburagi

**(Abdul Rahaman Pathan)**  
II Additional Senior Civil Judge  
& JMFC., Kalaburagi &  
C/C Senior Civil Judge & JMFC,  
ALAND