

IN THE COURT OF THE CIVIL JUDGE & JMFC
AT AFZALPUR

Present:

Sri. Ashoka T.,
B.A., LL.B
Civil Judge & J.M.F.C., Afzalpur

F.D.P. No.16/2018

Date: on this the 20th September-2021

Petitioner:

- 1) Jayashree D/o Somanna
Harijan @ Honnak W/o Jayanand
Jogure @ Jubre age 40 yrs
R/o. Revoor B., Tq. Afzalpur.

(By Sri. S.S.P. Advocate)

V/S.

Respondents:

- 1) Ratnabai W/o Somanna Harijan @Honnak
age 70 yrs occ household
R/o. Revoor B Tq Afzalpur
- 2) Kasturibai W/o Govindappa Harijan
@Honnak
age 40 yrs occ household
R/oRevoor B Tq Afzalpur.
- 3) Gangabai W/o Mallappa Wagge
age 46yrs occ Household
R/o Devalganagapur Tq Afzalpur.

- 4) Shivasharanappa S/o Govindappa
Harijan@ Honnak
R/o Revoor B Tq Afzalpur
- 5) Vijaya S/o Govindappa Harijan
@ Honnakage
Age: 23 yrs occ agri
R/o Revoor B Tq. Afzalpur
- 6) Kalasappa S/o Govindappa Harijan
@Honnak
age 25 yrs occ agri
R/o Revoor B., Tq Afzalpur

(Respondent No.1 by C.S.H., Adv.)

(Respondent No.2, 4 to 6 by Sri. KGP Adv.)

(Respondent No.3 placed exparte)

1. The petitioners has filed this petition against the respondents for the relief of final decree.

2. The brief facts of the case is that, the petitioner has filed a original suit against the respondents for the relief of partition and separate possession in OS No.1/2014 and the same was decreed on 10.08.2018 and a preliminary decree was passed in respect of 1/4th share of the petitioner in the suit properties i.e. land bearing sy.no.158 (old) measuring 08-acres (which is now renumbered as sy.no.158/1A & 158/1Aa)

measuring 04-acres each standing in the name of step mother of petitioner situated at Revoor B. village. There is no appeal pending against the said decree.

3. The respondent No.1 has filed objection contending that she being the own mother of petitioner, she is entitled to get her share in the suit property.

4. Respondent No.2 to 6 have not filed any objections. Heard counsel for petitioner and respondent No.1. The following points arise for consideration:

1. **Point No.1:** Whether the petitioner is entitled to the relief as prayed.

2. **Point No.2:** What order?

5. My answer to the above points are as follows:

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

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

REASONS

6. the petitioner has filed a original suit against the respondents for the relief of partition and separate possession in OS No.1/2014 and the same was decreed on 10.08.2018 and a preliminary decree was passed in respect of

1/4th share of the petitioner in the suit properties i.e. land bearing sy.no.158 (old) measuring 08-acres (which is now renumbered as sy.no.158/1A & 158/1Aa) measuring 04-acres each standing in the name of step mother of petitioner situated at Revoor B. village. There is no appeal pending against the said decree.

7. The respondent No.1 has filed objection contending that she being the own mother of petitioner, she is entitled to get her share in the suit property.

8. On perusal of judgment and decree passed by this Court in OS No.1/2014, the same discloses that the petitioner had filed the suit against the respondents in respect of suit property bearing land sy.no.158/A measuring 04-acres and sy.no.158/Aa measuring 04-acres. On 01.08.2018 this court has decreed the suit declaring that the plaintiff is entitled to 1/4th share in the suit property.

9. On perusal of order sheet, there is no appeal pending as against the said judgment and decree. On the application made by the petitioner, this court appointed court commissioner to effect partition and submit a report. In

pursuance of the said order, the court commissioner submitted a report effecting partition of the suit property in terms of the judgment and decree. The petitioner has selected a portion in the suit property to the extent of her share. The respondents have not filed any objection to the court commissioner report. The respondent No.1 has sought for allotment of her share in the suit property. On Perusal of the judgment and decree, it is noticed that the respondent No.1 has not been allotted any share in the suit property, therefore, her prayer cannot be considered here. As per the report of court commissioner dated 08.01.2020, 1/4th share of petitioner is marked as block No.A in sy.no.158/1 to the extent of 02-acres. Considering the above material, it is just and necessary to pass final decree in terms of the preliminary decree and also report of court commissioner. Hence, the following:

ORDER

The petition filed by the petitioner is hereby allowed.

1/4th share i.e. 02-acres marked as Block No.A in sy.no.158/1 is hereby allotted in favour of the petitioner.

Draw final decree accordingly.

(Dictated to the Typist transcribed by him, corrected by me, then pronounced in the open court on this the 20th of September-2021)

(Ashoka T.)
Civil Judge, Afzalpur

ANNEXURE

List of witnesses examined on behalf of petitioners

-Nil-

List of documents marked on behalf of petitioners:

-Nil-

List of witnesses examined on behalf of respondents.

-Nil-

List of documents marked on behalf of respondents.

-Nil-

List of witnesses examined on behalf of Court:

-Nil-

List of documents marked on behalf of Court:

-Nil-

Civil Judge & JMFC., Afzalpur