

KAKB320011912022



Presented on : 25-05-2022
Registered on : 25-05-2022
Decided on : 06-03-2026
Duration : 3 years, 9 months, 12 days

IN THE COURT OF THE CIVIL JUDGE & JMFC

AT AFZALPUR

Present:-

Sri. Anil Amate.,
B.A., LL.B., (Hon's)
Civil Judge & J.M.F.C., Afzalpur

F.D.P. No.10/2022

Date: on this the 06th Day of March-2026

PETITIONER:

1. Smt. Shantabai W/o Shivappa Tonashyal
Age: 52 years, Occ: Household,
R/o: Miragi, Tq. Indi, Dist. Vijayapura.
(BY SRI. Y.S.J. Adv.)

//Versus//

RESPONDENTS:

1. Basanna S/o Sharanappa Hunasagi
Age: 51 years, Occ: Agriculture,
R/o Mannur, Tq. Afzalpur.
2. Gurupadappa S/o Sharanappa Hunasagi
Age: 55 years, Occ: Agriculture,
R/o Mannur, Tq. Afzalpur.
(R-1 and R-2 by Sri. PBP Advocate)

ORDER ON MAIN PETITION

The petitioners have filed the present petition under U/o 20 Rule 18 R/w Sec. 54 of C.P.C. for the relief of final decree in terms of judgment dated 22.06.2018 and decree dated 25.06.2018 passed by Hon'ble Senior Civil Judge Afzalpur in RA No. 04/2017.



2. **The brief facts of the case of the petitioners are that:**

The plaintiff/petitioner has filed the suit partition and separate possession in O.S. No.16/2011 passed by this court, obtained a judgment and this court decreed the suit of the plaintiff/petitioner by that petitioner is entitled to 1/5th share in the suit property land bearing Sy.No.689 Measuring 23 acres 06 guntas situated at village Mannur, Tq:Afzalpur. Thereafter the the respondent No.1 and 2 have prepared Regular Appeal before the Hon'ble Senior Civil Judge Afzalpur in RA No. 04/2017. in which the share allotted in preliminary decree by this court has been altered as present petitioner and respondent No.1 and 2 are entitled for the 1/3rd shares in the suit property.

3. The notices were issued to the respondents by this court, though notices were served, the respondent No.1 (and 2 appeared through counsel. The respondents have not raised any objection to the petition.

4. ADLR Afzalpur was appointed as Court Commissioner to demarcate the share pertaining to landed property in pursuance of Preliminary Decree passed by Hon'ble Senior Civil Judge Afzalpur in RA No. 04/2017. Accordingly, the ADLR Afzalpur by his report dated:05.02.2026 had demarcated the share and recommended to allocate the share



as per the report as well as per sketch prepared by him. It is pertinent to note that the petitioner and respondents No.1 and 2 accepted the report submitted by Court Commissioner.

5. Heard learned counsels for the petitioners and the respondent No.1 and 2. Perused the material placed on record.

6. Upon hearing arguments and on perusal of the material placed on record, following points arise for consideration:.

1. Whether the report of the commissioner demarcating the shares of the parties is just, equitable and feasible??
2. What order?

7. My findings to the above points are as under:

1. In the Affirmative.
2. As per the final order, for the following:

REASONS

8. **POINT No.1:** It is not at all in dispute between the parties that, petitioner herein party in suit for partition and separate possession of her share in the suit property in O.S.No.16/2011 and RA No.04/2017. It is also an undisputed fact that, decree passed by Hon'ble Senior Civil Judge Afzalpur in RA No. 04/2017. the Hon'ble Senior Civil Judge



Afzalpur had decreed the appeal filed by the respondents No.1 and 2, allotting 1/3rd share to the present petitioner and respondent No.1 and 2. Thereafter, the present petition came to be filed for demarcation of the share as per Preliminary Decree by petitioner.

9. It is evident from the records of the case that, ADLR was appointed as commissioner to demarcate the share of the landed suit properties as per the Preliminary decree. The Commissioner after completion of commission work, has submitted his report on :05.02.2026 demarcating the shares of the parties as per Preliminary Decree. He has also annexed the separate sketch for suit property, wherein he has shown Block No.'A to 'C' as per the blocks, the 'A' Sy.No.689 measuring 07 acres 23 guntas 10 Anna situated at Mannur village allotted to the respondent No.1, as per the blocks, the 'B' Sy.No.689 measuring 07 acres 23 guntas 11 Anna situated at Mannur village allotted to the respondent No.2, as per the blocks, the 'C' Sy.No.689 measuring 07 acres 23 guntas 11 Anna situated at Mannur village allotted to the Petitioner. It is discernible from the ADLR report that, petitioner was present choose the share land and respondents No.1 and 2 were absent at the time of Commission work.

10. Looking to the material placed on record, from any angle the Commissioner's report is alone appears to be just,



equitable and feasible. Hence, considering all these aspects of the case and totality of the circumstances, I answer Point No.1 in the **Affirmative**.

11. **Point No.2:** For the foregoing reasons, I proceed to pass the following:

ORDER

Petition filed by the petitioner U/O XX Rule 18 read with Sec.54 of Code of Civil Procedure, 1908 is hereby allowed.

It is also made clear that, the sketch prepared by the Commissioner shall form the part of the Final Decree.

Draw Final Decree in terms of Commissioner's Report on furnishing Non-Judicial Stamps by the respective parties.

(Dictated to the Stenographer directly on computer, typed by him, corrected by me, then pronounced in the open court on this the 06th day of March-2026)

(Sri. Anil Amate)
Civil Judge and JMFC,
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-

(Sri. Anil Amate)
Civil Judge and JMFC,
Afzalpur.