

IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C. AT SEDAM

F.D.P. No.1/2018

:Present:

Sri.Sagar Gurugouda Patil.

B.A, LL.B(Spl).

Senior Civil Judge & JMFC, Sedam.

Dated this the 16th day of August - 2025

PETITIONERS:

Smt. Lachmamma & Another

(Petitioners by Sri.N.R. Advocate)

/// Versus ///

RESPONDENTS:

Sayanna @ Sayappa & Others.

(R.3 & 4 by Sri.K.B.R. Advocate)

(R.5 to 8 by Sri.H.M.R. Advocate)

(R.1(a) to (c) & R.2 Exparte)

Order on IA U/s.151 of CPC

Bajarla Pentamma & Ors. Applicants/Respondents No.5 to 8

V/s

Smt. Lachmamma & others Opponents/Petitioners

ORDER ON I.A. U/s.151 of CPC

The respondents No.5 to 8 have filed this application U/s.151 of CPC and sought to pass modified preliminary decree.

2. The respondents No.5 has sworn to and affidavit in support of the IA and stated that this court allotted 1/3rd share to petitioner No.2 Raghavendra. The petitioner No.2 ha filed the

suit for partition as head of the family consisting of himself, his mother and 4 sisters i.e., respondents No.5 to 8. Now the share allotted to the petitioner No.2 has to be allotted to petitioner NO.2(a) and respondents No.5 to 8. Hence, prays to allow the I.A.

3. The petitioners and other respondents have not filed objections to I.A.

4. Perused the records and heard.

5. The following points that arises for my determination is:

1. Whether the respondent No.5 has made out a grounds for modification of the preliminary decree as sought in the IA?

2. What order?

6. My findings on the above points are as under:

Point No.1: In the Affirmative.

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

REASONS

7. **Point No.1:** The judgment and decree in O.S.No.42/2014 shows that one Lachmamma and Raghavendra had filed suit for partition in respect of the suit properties and the same came to be decreed allotting 1/9th share to plaintiff No.2 i.e., Raghavendra. This court passed orders in this petition on 04.03.2024 and modified the preliminary decree allotting

1/3rd share to plaintiff No.1 and 2 and defendant No.1. Now the plaintiff No.2/petitioner No.2 died leaving behind him and petitioner No.2(a) and respondents No.5 to 8. Therefore, the petitioner No.2(a) and respondent No5 to 8 are having equal share in the 1/3rd share of plaintiff No.2 /petitioner No.2. Accordingly, they are entitled for 1/15th share each in the suit properties. Hence, I answer point No.1 in the Affirmative.

8. **Point No.2:-** As I have answered Point No.1 in the Affirmative. I proceed to pass the following

ORDER

IA filed by the respondent No.5 to 8 U/s.151 of CPC is hereby allowed.

The preliminary decreed dated: 28.03.2017, modified preliminary decree drawn as per order dated 05.03.2024 in O.S.No.42/2014 is hereby modified.

In view of the above order the shares of the parties are modified as under:

The petitioner No.1 and 2 and respondents 1, 3 and 4 are entitled for 1/5th share each in the petition schedule 1 to 6 properties.

The petitioner No.2(a) and respondents No.5 to 8 are entitled for 1/5th share each in the 1/3rd share of deceased petitioner No.2 which comes to 1/15th share each in the suit item No.1 to 6 properties.

Office is directed to draw modified
Preliminary Decree accordingly.

(Dictated to the Stenographer directly on computer, corrected and signed by me and then pronounced in the open court on this the **16th day of August- 2025**)

(Sagar Gurugouda Patil)
Senior Civil Judge & JM.F.C,
Sedam.