

KAKB710000602026



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FDP No.2/2026

Presented on : 06-02-2026
Registered on : 06-02-2026
Decided on : 17-03-2026
Duration : 00 year 1 month 11 days

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

:Present:

Sri. Sagar Gurugouda Patil.
B.A, LL.B(Spl).
Senior Civil Judge & JM.FC, Sedam.

F.D.P. No.2 of 2026

Dated this the 17th day of March - 2026

PETITIONER/S:

Vijayalaxmi D/o Basappa W/o
Mahadevappa Hadpad, Age: 55
years, Occ: Agriculture and
Housewife, R/o Dandothi village, Tq:
Chittapur, Dist: Kalaburagi.

(Petitioner by Smt./Sri.B.L.W. Advocate)

/// Versus ///

RESPONDENT/S:

1) Smt. Babamma W/o Gurunath
Trimala, Age: – years, Occ: Housewife,
R/o Masjid Mohalla, Sedam, Tq: Sedam,
Dist: Kalaburagi.

2) Basawaraj S/o Gurunath Trimala,
Age: – years, Occ: Agriculture, R/o



Masjid Mohalla, Sedam, Tq: Sedam,
Dist: Kalaburagi.

3) Raghavendra S/o Gurunath Trimala,
Age: – years, Occ: Agriculture, R/o
Masjid Mohalla, Sedam, Tq: Sedam,
Dist: Kalaburagi.

3(A) Savitri W/o Late. Raghavendra,
Age: 27 years, Occ: Household,

3(B) Guruprasad S/o Late.
Raghavendra, Age: 09 years, Occ:
Student,

3(C) Bhavani D/o Late. Raghavendra,
Age: 07 years, Occ: Student,

3(D) Janvi D/o Late. Raghavendra, Age:
04 years, Occ: Student,
All R/o: C/o Pakeerappa S/o Bhimasha
Hadpad, R/o Kalkumba village, Tq:
Sedam, Dist: Kalaburagi.

4) Vasanta W/o Hanamantha D/o
Gurunath Kimankar, Age: Major, Occ:
Household, R/o Vivekanand School
Behind Jewargi, Tq: Jewargi, Dist:
Kalaburagi.

5) Mohammed Soheil S/o Mohammed
Sharfuddin, Age: 35 years, Occ:
Agriculture, R/o Sedam, Tq: Sedam,
Dist: Kalaburagi.

(R.1 to 4 by Sri. V.J.M. Advocate)

(Prs by Sri.MA.J. Advocate)

(D.3(a) (b) by Sri.C.K.K. Advocate)



ORDER

The petitioner/plaintiff has filed this petition U/Sec.54 of CPC and sought to draw final decree in pursuance of the preliminary decree passed by this court in OS NO.81/2022.

2. The brief facts of the case of the petitioner is as under:

Thereafter this court has appointed the court commissioner i.e., the Tahasildar/ADLR Sedam to propose partition in the suit properties. Accordingly, the court commissioner has filed his report posing partition in the suit properties. Thereafter, the applicant/respondent No.5 has filed I.A. U/O 1 rule 10(2) of CPC and sought to implead him as party to the petition as he purchased the suit item No.2 from defendant No.3 through registered sale deed dated 16.09.2023 and this court allowed the I.A. and impleaded the applicant as respondent No.5. But he has not filed any objections to the main petition or the commissioner report.

3. The defendants No.1 and 2 have filed objections to the commissioner report and contended that



before carrying out commission work the commissioner did not issue notice to them and conducted the commission work in the absence of the defendants. The commissioner has allotted specific portions of the suit lands to the plaintiff and the same is against the law. The court commissioner allotted fertile land to the share of the plaintiff and the remaining land is not fertile. Hence, prays to reject the commissioner report and prays to appoint fresh commissioner.

4. Perused the record and heard.

5. On perusal of the records this court find that only after receipt of the commissioner report the applicant got impleaded himself as respondent NO.5 who is purchaser of the suit item No.2 during pendency of the suit. The respondent No.5 being purchaser of one of the suit properties from one of the co-parceners is entitled for equities and equities has to be worked out in this final decree proceedings only. In the commission report the court commissioner proposed partition in the suit properties



showing the portions of suit lands to the shares of the plaintiff and defendants. Therefore, on the basis of the court commissioner report at hand this court cannot work out equities in favour of the purchaser-respondent No.5. Therefore, on this ground alone the court commissioner report has to be rejected.

6. In this case this court in the preliminary decree allotted half share to the plaintiff and half share to the defendants together in the suit properties. The respondent No.5 purchased suit item No.2 from defendant No.2. Therefore equities has to be worked out by allotting entire suit item No.2 to the share of the defendants and in turn give it to the purchaser-respondent No.5 with a direction in lieu of this property, the plaintiff may be allotted lands of the share of the defendant in suit items No.1 and 3 properties. The suit item No.2 measures 02 acres 13 guntas i.e., 133 guntas and as per the preliminary decree the plaintiff and defendants together are entitled for half share in the suit properties and accordingly out of 133 guntas the plaintiff is



entitled for 66.5 guntas and in lieu of this land the land measuring 66.5 guntas has to be allotted to the share of the plaintiff in suit item No.1 and 3. In suit item No.1 there is land measuring 01 acre 17 guntas and out of it the plaintiff is entitled for 28.5 guntas and there is land measuring 01 acre 26 guntas in suit item No.3 and out of it the plaintiff is entitled for 33 guntas. Accordingly, in suit item No.1 defendants are entitled for 28.5 guntas in suit item No.3 they are entitled for 33 guntas. In other words in suit items No.1 and 3 the defendants are entitled for 61.5 guntas. As discussed above the plaintiff is entitled for land measuring 66.5 guntas in lieu of his share in item No.2.

7. The above discussion makes it clear that if entire extent of land in suit item No.2 is allotted to the share of defendants and in turn gave it to the respondent No.5 who is purchaser from defendant No.3 by working out and in lieu of her half share in suit item No.2 if entire lands in suit items No.1 and 3 are allotted to the share of the plaintiff it will meet the ends of justice and no loss or hardship would



be caused either to the plaintiff or the respondent 5-purchaser. Moreover, no loss or hardship would be caused to the defendants also as defendant No.3 sold suit item No.2 to respondent No.5 and received sale consideration amount. It is no doubt true that if final decree is drawn in the above terms approximately 4-5 guntas less land will come to the share of the plaintiff. But it can be taken as compensated as entire extent of lands in suit items No.1 and 3 will be allotted to her and it will be convenient to her to carry on agricultural operations in wide extent of the land than less extent of i.e., her half share in the suit item No.1 and 3 properties. Therefore, the working out of equities as discussed above will be beneficial and convenient both of the plaintiff and the purchaser. Further, the partition effected as above by working of equities is equitable one. Hence, the following;

ORDER

The application filed by the petitioner
U/Sec. 54 of CPC is hereby allowed.



The suit item No.2 is allotted to the share of defendants No.1 to 4 and in turn the same has to be given to respondent No.5 who is purchaser from defendant No.3 by working out equities and in lieu of his half share in the suit item No.2 and also suit item No.1 and 3 the entire extent of suit items No.1 and 3 properties are allotted to the share of the plaintiff/petitioner.

The petitioner/plaintiff is entitled to get separate possession of suit items No.1 and 3 properties through due process of law.

Office to engross final decree after furnishing requisite stamp paper.

(Dictated to the Stenographer directly and typed by him on computer, corrected and signed and then pronounced by me in the open court on this the **17th day of March 2026**)

(Sagar Gurugouda Patil)
Senior Civil Judge & JMFC,
Sedam.

ANNEXURE

- 1) List of witnesses examined on behalf of the Petitioner/s: Nil



- 2) List of witnesses examined on behalf of the Respondent/s
- NIL –
- 3) List of documents marked on behalf of the Petitioner/s:
- Nil -
- 4) List of documents marked on behalf of the Respondent/s.

- NIL –

Senior Civil Judge & JMFC, Sedam

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