

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC AT
Sedam**

PRESENT: SRI. VIJAYKUMAR.S. JATLA

**B.Sc., LL.B.
Senior Civil Judge & JMFC, |Sedam.**

DATED THIS THE 17TH DAY OF JANUARY-2023.

F.D.P.No.11/2019

Petitioner : Smt.Mallamma w/o Raghavendra.

Versus

Respondents : Ramlingappa and others

**Order on I.A.No-II U/o 26 Rule 13 R/w Section 151 of CPC
filed by Petitioner**

This is an interlocutory application filed by the petitioner seeking appointment of survey supervisor as commissioner for proposing partition of suit lands and any advocate be appointed as court commissioner to effect partition of suit house.

02. The advocate for petitioner contended that petitioner had filed O.S No.45/2018 for partition and separate possession regarding the suit properties mentioned therein. The Hon'ble court was pleased to decree the suit of the respondent allotting the petitioner 1/4th share and also her father defendant No.1 1/4th share. After the death of father of the petitioner, the petitioner filed application for modification of decree the same was allowed and passed modified decree. As per preliminary decree the suit properties are to be partitioned by metes and bounds and petitioner is to be put in

separate possession of her share. Since the preliminary decree is regarding lands and house, the Hon'ble court be pleased to appoint Tahasildar Commissioner for effecting and proposing partition of lands and advocate as commissioner for effecting partition of suit house.

03. The respondents not filed objections.

04. On the basis of the above pleadings and on hearing petitioner side, the following points arise for my consideration.

- 1) Whether the petitioner has made out grounds to allow I.A.No.II U/Order 26 Rule 13 R/w Section 151 of CPC?
- 2) What order?

05. 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

06. Point No.1:- The case of the petitioner is as discussed above. The petitioner/plaintiff filed suit for partition and separate possession in O.S.No.45/2018 and same was decreed by this court. Presently the petitioner filed Final Decree Proceedings. Thereafter vide order dated 12.9.2022 the preliminary decree was modified. The petitioner filed I.A.No.2 for appointment of Tahasildar to effect the partition of landed properties and advocate commissioner for effecting the partition in respect of house property. There is no

appeal or stay order pending in respect of the Judgment and decree and the appointment of commissioner as sought in the application is very much essential for drawing the final decree. The respondents not filed any objections to the I.A.No.2. The petitioner made out the valid and justifiable grounds to allow I.A No.II Order 26 Rule 13 R/w Section 151 of CPC. In the light of above reasons I answer **Point No.1 in the Affirmative.**

07. Point No.2:- As I have answered point No. 1 in the Affirmative for the foregoing reasons, I proceed to pass the following:

ORDER

IA-II U/Order 26 Rule 13 R/w Section 151 of CPC filed by the petitioner is hereby allowed with no cost.

The Taluka Tahasildar is appointed as court commissioner for effecting the partition in respect of landed properties and Advocate is appointed as commissioner for effecting partition in respect of house property as per Judgment and decree in O.S.No.45/2018.

Commissioner fee of Rs.2,000/- each is fixed.

(Dictated to the directly on computer and corrected, signed and then pronounced by me, in the open Court on this the **17th day of January-2023**, at Sedam)

Senior Civil Judge & JMFC,
Sedam.