

15.4.2024.

**Order on IA No.2 U/O 26 Rule 9 of CPC**

The petitioners have filed this application U/O 26 Rule 9 of CPC and sought to appoint court commissioner as ADLR Sedam to propose partition in the petition schedule properties.

**2.** The petitioner No.4 has sworn to an affidavit and stated that earlier the court commissioner was appointed and the report was also submitted. But in RSA No.200239/2015 the Hon'ble High Court of Karnataka Kalaburagi Bench modified the shares of the parties. Hence, prays to appoint the court commissioner to demarcate the shares as per the decree of the Hon'ble High Court of Karnataka.

**3.** The respondents have not filed objections to IA.

**4.** Perused the records. Heard arguments.

**5.** The decree of the Hon'ble High Court of Karnataka in RSA No.200239/2015 shows that the plaintiffs 2 to 6 are entitled for  $1/6^{\text{th}} + 1/48^{\text{th}}$  share i.e.,  $3/16^{\text{th}}$  each and plaintiff No.1 and defendants 2 and 3 are entitled for  $1/48^{\text{th}}$  share each in the suit properties. The respondents have not filed any document to show that either they preferred appeal before the Hon'ble Supreme Court or the proceedings of this case is stayed. Therefore, it is just and necessary to get commissioner report to enable this court to pass final decree. The suit items 1 and 2 properties are agricultural lands. Therefore, it is just and necessary to

appoint the Tahasildar/ADLR Sedam as Court commissioner to propose partition in the suit items 1 and 2 properties. The suit item No.3 is the house property. Therefore, it is just and necessary to appoint advocate court commissioner to propose partition in suit item No.3 property. Hence the following:

**ORDER**

The application filed by the petitioners U/O 26 Rule 9 of CPC is hereby allowed.

The Tahasildar/ADLR Sedam is appointed as court commissioner to propose partition in suit items 1 and 2 properties as per the decree of the Hon'ble High Court of Karnataka Kalaburagi Bench in RSA No.200239/2015.

The Tahasildar/ADLR Sedam is directed to visit the suit items 1 and 2 properties to measure and survey the suit lands and propose partition in the suit items 1 and 2 properties as per the decree of the Hon'ble High Court of Karnataka Kalaburagi Bench in RSA No.200239/2015 by preparing sketch and submit the report to this court.

Sri.P.D. Advocate is appointed as court commissioner to propose partition in suit item No.3 property.

Sri.PD. Advocate Sedam is directed to visit the suit item No.3 property to measure same and propose partition in the suit item No.3 property as per the decree of the Hon'ble High Court of Karnataka Kalaburagi Bench in RSA No.200239/2015 by preparing sketch and submit the report to this court.

Court commissioners fee is fixed at Rs.3,000/-. Out of it Rs.1,000/- shall be paid to the Tahasildar/ADLR Sedam and Rs.2,000/- shall be paid to Sri.P.D.Advocate.

Office to issue commissioner warrants to Tahasildar/ADLR Sedam and Sri.P.D.Advocate Sedam.

Office to annex copy of the decree of the Hon'ble High Court of Karnataka Kalaburagi Bench in RSA No.200239/2015 to the warrants.

**Senior Civil Judge & JMFC,  
Sedam.**

**ORDER ON I.A. U/S 151 OF CPC**

The petitioners have filed this application U/s.151 of CPC and sought to give police protection while executing the warrants.

The petitioner No.3 has sworn to an affidavit in support of IA and stated that at the time of executing the warrants the respondents may stop the execution of warrants. Hence, prays to allow the IA.

The respondents have not filed objections to IA.  
Perused the records. Heard arguments.

In view of the facts and circumstances of the case it is open for the court commissioner to seek police protection from the concerned police station if required. Hence the following:

**ORDER**

The application filed by the petitioners U/s.151 of CPC is hereby allowed.

The SHO of concerned Police Station is hereby directed to give police protection to the court commissioner while executing the warrants if they seek protection.

Senior Civil Judge, Sedam.

The petitioners shall deposit court commissioners fee, pay PF and furnish copies of the decree of the Hon'ble High Court of Karnataka in RSA No.200239/2015 and also furnish RTC extracts of suit items 1 and 2 and Khata Extract of suit item No.3 property.

For await report call on 15.6.2024.

Senior Civil Judge & JMFC, Sedam.