

ORDERS ON IA No.II

The petitioners have filed an IA No.II under section 151 of CPC seeking order to enlarge/alter the share of the petitioners in respect of suit schedule properties as per the ruling of Hon'ble Supreme Court pertaining to Section 6 of Hindu Succession Amendment Act 1956, confirm the status of co-parcenars of the daughter born before or after amendment in the same as a son.

The petitioner No.1 has filed an affidavit in support of application wherein the suit had filed in OS No.27/2013 seeking relief of partition before this court. The said suit came to be decreed and declared that the plaintiff No.1 and defendant No.5 and 6 are entitled for 1/18th share each in all the suit schedule properties. The said

suit was decreed on 08.08.2016. Recently, The Hon'ble Supreme Court passed a ruling in Hindu Succession Act would open flood gets to fresh litigation. The provisions contained in Section 6 of Hindu Succession Act 1956 confer the status of co-parcenars of the daughters born before or after amendment the same manner as a son with the same rights and liabilities. Hence, the plaintiff No.1 and defendant No.5 and 6 are entitled to equal share along with the defendant NO.1 to 4. Hence, filed this application.

Sufficient opportunity given to defendants but the defendants/respondents have fail to file an objection to IA No.II.

This court has perused the material available on record.

Heard the arguments from learned counsel for the petitioners.

One Siddegowda and Ningamma had 8 children namely Pushpa, Uma, Siddegowda, Annaiah, Ranganna, Rudramma, Rathnamma and Lakshamma. The petitioners herein had filed a suit in OS No.27/2013 before this court for the relief of partition and separate possession over the suit schedule properties. This court was decreed the suit of the plaintiffs/ petitioners. This court declare that the plaintiff No.1, defendant No.5 and 6 are entitled for 1/18th share each and plaintiff No.2, defendant No.1 to 3 and husband of 4th defendant are entitled for 3/18th share each over the suit schedule properties. After disposal of the suit the Hon'ble Supreme Court

of India passed the order in the case of **Venita Sharma V/s Rakesh Sharma**. In this decision the Hon'ble Supreme Court held that the daughters also entitled to equal share same manner as a son. Hence, the petitioner No.1, respondent No.4 to 6 are also entitled equal share each in the petition schedule properties. Hence, modification of the preliminary decree is required. The application filed by the petitioner is deserves to be allowed. Hence, this court has proceed to pass the following:

ORDER

IA No.II Under Section 151 of CPC filed by the petitioner is hereby allowed.

Declare that the plaintiff No.1 and 2 are entitled each 1/8th share in the petition schedule properties.

The defendant No.1 to 6 also entitled each 1/8th share in the suit schedule properties.

Office is directed to amend the preliminary decree as per orders on IA No.II and draw the amended preliminary decree. After draw the amended preliminary decree the petitioners are directed to file necessary application for appointment of Court Commissioner.

**Senior Civil Judge and JMFC.,
Malavalli.**