

IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL
JUDGE AND JMFC AT PANDAVAPURA

Dated this the 04th day of December-2025

PRESENT :

SRI.BABU N., B.com, LL.B.
I Addl. Senior Civil Judge & JMFC,
Pandavapura.

FDP.No:20/2024

PETITIONER : Smt. Ningamma

V/s

RESPONDENT : Shivannegowda

PARTIES IN I.A.No.II

APPLICANT : Smt. Ningamma

... Petitioner

V/s

OPPONENTS : Shivannegowda

... Respondent

**ORDER ON I.A.No.II FILED UNDER ORDER 26 RULE 9
R/W/S 151 OF CPC**

The petitioner has filed the application to appoint the Tahsildar as court commissioner to demarcate the suit schedule properties and submit report.

2. In the affidavit annexed to the application it is stated that, the petitioner has filed the application pursuant to preliminary decree passed in O.S.No.95/2022.

3. The respondent has resisted the application stating that, the Tahsildar does not have jurisdiction to demarcate the property and that, the decree has not specifically stated as to which side of the property should belong to which party and that, the Tahsildar does not have information about the survey and hence the parties would suffer inconvenience and that, while conducting survey it is necessary to have complete knowledge about the sketch and phodi and hence it is necessary to appoint an expert as court commissioner and that, an expert in preparing sketch needs to be appointed as per the decision in Anil Kamalakar Sheerodkar V/s Duddappa.

4. Following points do arise for consideration:-

1. Whether it is necessary to appoint the court commissioner as prayed for in the application?
2. What order?

5. Having heard learned Counsel for the respective parties and considered the material on record, I answered the above points as below for the following reasons;

Point No.1 : In the Affirmative,

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

REASONS

6. **Point No.1:-** The petitioner has initiated the final decree proceedings pursuant to preliminary decree dated 09.07.2024 passed in O.S.No.95/2022 wherein it is held that, the plaintiff and defendant are entitled to ½ share each in the schedule properties.

7. The preliminary decree schedule shows that, the schedule properties are agricultural properties. Therefore it is proper to appoint the Tahsildar, Pandavapura to demarcate the suit schedule

properties as per the preliminary decree and prepare 11-E sketch and submit to the court along with report. As the Tahsildar will have to prepare 11-E sketch it would be proper to authorize him to fix and collect necessary fee from the parties for executing commission work.

8. It is the objection raised by the respondent that, the Tahsildar is not a competent person to demarcate the suit schedule properties. The said objection is not maintainable in view of Section 54 of the Code of Civil Procedure which specifically says that, the court may obtain report from the revenue officer not below the rank of Tahsildar to effect partition of the properties as per preliminary decree. Hence the objection raised by the respondent cannot be accepted. Under these circumstances I **answer Point No.1 in the Affirmative.**

9. **Point No.2:-** Having answered Point No.1 in the Affirmative, I proceed to pass the following :-

ORDER

I.A.No.II is allowed.

The Tahsildar, Pandavapura is appointed Court Commissioner to demarcate and prepare 11-E sketch and submit report to the court as per the preliminary decree passed in O.S.95/2022.

The Tahsildar, Pandavapura is at liberty to delegate the commission work to any of his suitable subordinate officers.

The Tahsildar, Pandavapura shall calculate and collect necessary fee from the

parties as per the rules that are applicable to prepare 11-E sketch.

Both the parties shall file memo of instructions on or before 08.12.2025.

Issue commissioner warrant if necessary PF is paid.

Await report call on: 03.01.2026.

(Dictated to the Stenographer on computer directly, then corrected and pronounced by me in the open Court on 04.12.2025)

(BABU N.)

I Addl. Senior Civil Judge & JMFC,
Pandavapura.

(Order pronounced in the open Court
vide separate Order)

ORDER

I.A.No.II is allowed.

The Tahsildar, Pandavapura is appointed Court Commissioner to demarcate and prepare 11-E sketch and submit report to the court as per the preliminary decree passed in O.S.95/2022.

The Tahsildar, Pandavapura is at liberty to delegate the commission work to any of his suitable sub ordinate officers.

The Tahsildar, Pandavapura shall calculate and collect necessary fee from the parties as per the rules that are applicable to prepare 11-E sketch.

Both the parties shall file memo of instructions on or before 08.12.2025.

Issue commissioner warrant if necessary PF is paid.

Await report call on: 03.01.2026.

I Addl. Senior Civil Judge & JMFC,
Dt : 04/12/2025 Pandavapura.

