

IN THE COURT OF THE II ADDL CIVIL JUDGE & JMFC, AT
PANDAVAPURA

Present:- Smt.PARVATHAMMA B.,
B.A., LL.M.
Pri.Civil Judge & JMFC,
Pandavapura.

Dated this the 23rd day of April - 2026

FDP No.03/2017

Petitioner : Bharathi D/o late Kariyaiah,
aged about 40 years,
r/at Mollenahalli Village, Chinakurali Hobli,
Pandavapura Taluk.

(Rep. by Sri.H.S.S., Advocate)
-V/s-

Respondents :

1. Halamma W/o late Kariyaiah,
aged about 80 years,
2. Boraiah S/o late Kariyaiah,
aged about 50 years.
3. Siddaiah S/o late Kariyaiah,
aged about 44 years,
4. Rachaiah S/o late Kariyaiah,
aged about 42 years,

All are r/at Mollenahalli Village, Chinakurali Hobli,
Pandavapura Taluk.

(Respondent No.1 is dead)
(Respondent No.3 and 4 are Reptd., by Sri.G.B.S., Adv.,)
(Respondent No.2 is placed exparte)

ORDER

This is a petition filed U/Sec.54 of the CPC to draw final decree on the basis of the preliminary decree in O.S.No.172/2012.

2. The case of the petitioner that, the plaintiff filed a suit in the Court against the defendants seeking partition and separate possession in OS.No.172/2012, which was decreed on 07.12.2013. The defendants have not yet divided the properties and taken separate possession as per the order of the Court. The plaintiff has filed a suit in the Court stating that the defendant No.5 Sannathayamma, is a party to this suit and will not seek any relief against her. The plaintiff does not claim any share. The property in her name was left to her and she was not approached any relief. The suit schedule properties are agricultural land and it is necessary to appoint the Tahsildar, Pandavapura, court commissioner as an agent to bifurcate the plaintiff's 1/5th share in the said properties.

For the above reasons, it is prayed to this Court to send a copy of the decree of the suit to the Tahsildar Pandavapura, identify the 1/5th portion of the plaintiff's decree schedule properties, prepare a map and submit a report, give appropriate directions and following the report, pass appropriate orders to take separate possession of the plaintiff's properties.

“ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತುಗಳ ವಿವರ

1. ಪಾಂಡವಪುರ ತಾಲ್ಲೂಕು ಚಿನಕುರಳಿ ಹೋಬಳಿ ಮೊಳ್ಳೇನಹಳ್ಳಿ ಗ್ರಾಮದ ಜಮಾಬಂದಿಗೆ ಸೇರಿದ ಸರ್ವೆ ನಂಬರ್ 7/3 ರಲ್ಲಿನ 34 ಗುಂಟೆ ಜಮೀನು ಇದಕ್ಕೆ ಚಕ್ಕುಬಂದಿ :-

ಪೂರ್ವಕ್ಕೆ : ಬಸವಯ್ಯನವರ ಜಮೀನು
 ಪಶ್ಚಿಮಕ್ಕೆ : ಮೊಳ್ಳಯ್ಯನವರ ಜಮೀನು
 ಉತ್ತರಕ್ಕೆ : ಹಳ್ಳ
 ದಕ್ಷಿಣಕ್ಕೆ : ಗ್ರಾಮ ರಾಣಾ

2. ಪಾಂಡವಪುರ ತಾಲ್ಲೂಕು ಚಿನಕುರಳಿ ಹೋಬಳಿ ಮೊಳ್ಳೇನಹಳ್ಳಿ ಗ್ರಾಮದ
 ಜಮಾಬಂದಿಗೆ ಸೇರಿದ ಸರ್ವೆ ನಂಬರ್ 7/5 ರಲ್ಲಿನ 0.08 ಗುಂಟೆ ಜಮೀನು ಇದಕ್ಕೆ
 ಚಕ್ಕುಬಂದಿ :-

ಪೂರ್ವಕ್ಕೆ : ಸರ್ಕಾರಿ ಹಳ್ಳ
 ಪಶ್ಚಿಮಕ್ಕೆ : ಬಸವಯ್ಯನವರ ಜಮೀನು
 ಉತ್ತರಕ್ಕೆ : ಸರ್ಕಾರಿ ಹಳ್ಳ
 ದಕ್ಷಿಣಕ್ಕೆ : ಮರಿಹುಚ್ಚಮ್ಮನವರ ಜಮೀನು

3. ಪಾಂಡವಪುರ ತಾಲ್ಲೂಕು ಚಿನಕುರಳಿ ಹೋಬಳಿ ಮೊಳ್ಳೇನಹಳ್ಳಿ ಗ್ರಾಮದ
 ಜಮಾಬಂದಿಗೆ ಸೇರಿದ ಸರ್ವೆ ನಂಬರ್ 23/3 ರಲ್ಲಿನ 0.07 ಗುಂಟೆ ಜಮೀನು ಇದಕ್ಕೆ
 ಚಕ್ಕುಬಂದಿ :-

ಪೂರ್ವಕ್ಕೆ : ಸರ್ಕಾರಿ ಹಳ್ಳ
 ಪಶ್ಚಿಮಕ್ಕೆ : ಸರ್ಕಾರಿ ರಸ್ತೆ
 ಉತ್ತರಕ್ಕೆ : ಸಣ್ಣ ಬೋರಯ್ಯನವರ ಜಮೀನು
 ದಕ್ಷಿಣಕ್ಕೆ : ಸರ್ಕಾರಿ ರಸ್ತೆ

4. ಪಾಂಡವಪುರ ತಾಲ್ಲೂಕು ಚಿನಕುರಳಿ ಹೋಬಳಿ ಮೊಳ್ಳೇನಹಳ್ಳಿ ಗ್ರಾಮದ
 ಜಮಾಬಂದಿಗೆ ಸೇರಿದ ಸರ್ವೆ ನಂಬರ್ 42/4 ರಲ್ಲಿನ 0.36 ಗುಂಟೆ ಜಮೀನು ಇದಕ್ಕೆ
 ಚಕ್ಕುಬಂದಿ :-

ಪೂರ್ವಕ್ಕೆ : ಬಸವಯ್ಯನವರ ಜಮೀನು
 ಪಶ್ಚಿಮಕ್ಕೆ : ಸಿದ್ಧರಾಜು ರವರ ಜಮೀನು
 ಉತ್ತರಕ್ಕೆ : ಸರ್ಕಾರಿ ಹಳ್ಳ
 ದಕ್ಷಿಣಕ್ಕೆ : ಹನುಮಯ್ಯನವರ ಜಮೀನು

5. ಪಾಂಡವಪುರ ತಾಲ್ಲೂಕು ಚಿನಕುರಳಿ ಹೋಬಳಿ ಮೊಳ್ಳೇನಹಳ್ಳಿ ಗ್ರಾಮದ ಜಮಾಬಂದಿಗೆ ಸೇರಿದ ಸರ್ವೆ ನಂಬರ್ 47 ಪೈಪಿ 8 ರಲ್ಲಿ 2 ಎಕರೆ ಜಮೀನು ಇದಕ್ಕೆ ಚಕ್ಕುಬಂದಿ :-

ಪೂರ್ವಕ್ಕೆ : ಸರ್ಕಾರಿ ರಸ್ತೆ
 ಪಶ್ಚಿಮಕ್ಕೆ : ಸಿದ್ಧಯ್ಯನವರ ಜಮೀನು
 ಉತ್ತರಕ್ಕೆ : ಮೊಳ್ಳಯ್ಯ ಮತ್ತು ಇತರರ ಜಮೀನು
 ದಕ್ಷಿಣಕ್ಕೆ : ಬೆಟ್ಟಯ್ಯನವರ ಜಮೀನು

6. ಪಾಂಡವಪುರ ತಾಲ್ಲೂಕು ಚಿನಕುರಳಿ ಹೋಬಳಿ ಮೊಳ್ಳೇನಹಳ್ಳಿ ಗ್ರಾಮದ ಜಮಾಬಂದಿಗೆ ಸೇರಿದ ಸರ್ವೆ ನಂಬರ್ 48-3 ರಲ್ಲಿನ 0.14 ಗುಂಟೆ ಜಮೀನು ಇದಕ್ಕೆ ಚಕ್ಕುಬಂದಿ :-

ಪೂರ್ವಕ್ಕೆ : ಬಸವಯ್ಯನವರ ಜಮೀನು
 ಪಶ್ಚಿಮಕ್ಕೆ : ಬೋರಯ್ಯನವರ ಜಮೀನು
 ಉತ್ತರಕ್ಕೆ : ಕರಿಯಯ್ಯನವರ ಜಮೀನು
 ದಕ್ಷಿಣಕ್ಕೆ : ಸರ್ಕಾರಿ ರಸ್ತೆ

7. ಪಾಂಡವಪುರ ತಾಲ್ಲೂಕು ಚಿನಕುರಳಿ ಹೋಬಳಿ ಮೊಳ್ಳೇನಹಳ್ಳಿ ಗ್ರಾಮದ ಜಮಾಬಂದಿಗೆ ಸೇರಿದ ಸರ್ವೆ ನಂಬರ್ 24-ಪೈಪಿ-1 ರಲ್ಲಿನ 01.04 ಗುಂಟೆ ಜಮೀನು ಇದಕ್ಕೆ ಚಕ್ಕುಬಂದಿ :-

ಪೂರ್ವಕ್ಕೆ: ಸಿದ್ಧಯ್ಯ ರವರ ಜಮೀನು
 ಪಶ್ಚಿಮಕ್ಕೆ: ಮರಿಹುಚ್ಚಮ್ಮನವರ ಜಮೀನು
 ಉತ್ತರಕ್ಕೆ: ಬೋರಯ್ಯನವರ ಜಮೀನು
 ದಕ್ಷಿಣಕ್ಕೆ: ಜಯಮ್ಮನವರ ಜಮೀನು"

(Claim is withdrawn by the petitioner with respect to property bearing Sy.No.47/p8 measuring 37 guntas, Sy.No.47/p9 measuring 2 acres and Sy.No.24/pai p1 measuring 01.04 guntas by filing memo on 02.04.2026 subject to phodi durasth of the said properties.)

3. On service of notice, the respondents appeared through their counsel, but failed to file any objection to the main petition. Hence, objection is taken as not filed.

4. When the case was posted for issuance of commissioner warrant to bifurcate the properties as per the preliminary decree passed in O.S.No.172/2012 dated:07.12.2013. Thereafter Commissioner was appointed to effect partition in terms of the order passed in O.S.No.172/2012 dated:07.12.2013. The commissioner filed report before the court. The counsel for the petitioner has not filed any objection to the Commissioner report. On perusal of the record no communication for preferring of any appeal is received. Further on enquiry there is no appeal preferred by the parties on the judgment and decree passed in O.S.No.172/2012 dated:07.12.2013. Further, Sri.H.S.Shashikumar Counsel for the petitioner filed memo on 02.04.2026 stating that, with

respect to property bearing Sy.No.47/p8, Sy.No.47/p9 and Sy.No.24/pai p1 withdraw the claim of the petitioner in the petition subject to phodi durasth of the said properties. Same is accepted.

5. Heard.

6. Now the points that arise for my consideration are as follows:

1. Whether the petitioner is entitled for final decree as prayed in the petition?
2. What Order?

7. My answer to above point is as under: -

Point No.1	:	In the Affirmative;
Point No.2	:	As per the final order for the following:

REASONS

8. POINT No.1:- The petitioners and respondents have not filed any objection to the commissioner report. The Commissioner filed report dividing the suit schedule properties as per the preliminary decree passed in O.S.No.172/2012 dated:07.12.2013. After receipt of Commissioner report, case is posted for objection to the Commissioner report and none have filed objection to the Commissioner report. Since the petitioner and respondents failed to file objection before the court to resist the petition filed by the petitioner and also the Commissioner report, this court do not find any reason to discuss more regarding entitlement of the petitioners for

final decree as prayed. Further, Sri.H.S.Shashikumar Counsel for the petitioner filed memo on 02.04.2026 stating that, with respect to property bearing Sy.No.47/p8, Sy.No.47/p9 and Sy.No.24/pai p1 withdraw the claim of the petitioner in the petition subject to phodi durasth of the said properties. Same is accepted.

9. The Commissioner in his report has allotted 2/5th share to petitioner in the suit schedule properties as ordered by this court in modified preliminary decree. Hence, this court do not find any reason to reject the report filed by the Commissioner. Admittedly the respondents have failed to effect partition of the suit schedule properties in terms of preliminary decree in O.S.No.172/2012 dated:07.12.2013. Hence, the petitioner is entitled to get final decree as per the report filed by the Commissioner. **Accordingly, point No.1 is answered in the Affirmative.**

10. **POINT No.2:-** In the light of the aforesaid finding on the above said point, this court proceed to pass the following:

ORDER

The petition filed by the petitioner U/sec.54 of CPC is hereby allowed only to property item No.1 to 4 and 6.

With respect to property item No.5 bearing Sy.No.47/p8 and item No.7 Sy.No.24/pai p1 withdraw the claim of the

petitioner in the petition subject to phodi durasth of the said properties.

Draw final decree in terms of report filed by the Commissioner.

Sketch and report filed by the Commissioner shall be part of the final decree.

The respondent No.1 to 4 are directed to pay the court fee to their respective shares.

(Dictated to the Stenographer, transcribed by her, corrected and then pronounced by me in the open Court on this the 23rd April - 2026)

**(Parvathamma.B)
C/C II Addl.Civil Judge & JMFC,
Pandavapura.**