

ORDERS ON I.A.No.III

The I.A.No.III is filed by the Petitioners Under Order XXVI Rule 13 r/w Sec. 151 of CPC, seeking to appoint the court commissioner i.e., the ADLR and Assistant Executive Engineer, PWD to demark the share of the petitioners and respondent in the suit schedule properties as per preliminary decree passed in O.S.No.51/2021, passed by this court. In the memorandum of facts, it is stated that they have filed this petition to issue final decree after partition in the properties involved in suit as per the preliminary decree passed by this court. That the ADLR and Assistant Executive Engineer, PWD to demark the share of the petitioners and respondent in the suit schedule properties. Therefore, if the application is allowed, no hardship or loss will be caused to the respondent. Hence, prays to allow the same.

On the other hand, respondent have not appeared before this court. Hence objection to I.A. No.III taken as Nil.

Heard. Perused. On perusal of the records. In pursuance of the said judgment and decree the petitioners are before the Court for execution of the preliminary decree as per Section 54 of CPC. Per contra the have not filed any objection to for apportionment of the share through court commissioner. Thereby petitioners have filed this interim application to effect partition of suit schedule properties through the Court Commissioner. It is pertinent to note there is no document produced by the respondent for being challenged the preliminary decree passed in O.S. No.51/2021. Wherein the petitioners are entitled for share of $1/3^{\text{rd}}$. Thus I do not find any legal impediment to disallow this IA. As I am of the opinion that, it is just and proper to refer the judgment and decree of O.S.No.51/2021 to the court commissioner to effect partition of respective shares of the petitioners and respondent and to submit the report in order to draw the final decree as prayed in the petition. Hence, the court is of the opinion that the reasons assigned in the instant application is justifiable and acceptable and hence, court proceeds to pass following:

ORDER

I.A.No.III filed by the petitioners Under Order XXVI Rule 13 of C.P.C. is hereby allowed.

The ADLR & Assistant Executive Engineer, PWD is hereby appointed as Court Commissioner and also directed the court commissioner to fix the boundaries of the suit properties as per preliminary decree passed in O.S.No.51/2021.

Court Commissioner is fixed at Rs.2,000/-.

The commissioner is hereby directed to submit his detailed report with sketch.

For commissioner fee and memo of instruction.

Call on 30.08.2025

Addl. Civil Civil Judge and JMFC,
Hunsur.