

ORDERS ON COMMISSIONER'S REPORT

The petitioners have filed the petition seeking demarcation of their 1/7th share in the petition schedule properties. Interalia the petitioners have filed I.A. under Order 26 Rule 9 r/w Section 54 C.P.C. The said I.A. was allowed and the Tahsildar, Nanjangud was appointed as court commissioner to demarcate the schedule properties. Thereafter commissioner report was submitted to the court.

2. The court commissioner did not demarcate land bearing Sy.No.112/1 on the ground that the re-survey No.112/1 was subjected to podi durasth and the survey number was poded as Sy.No.112/1 measuring 10 guntas and Sy.No.112/3 measuring 2 acres 20 guntas. Since the court has passed orders for demarcation of 2 acres 30 guntas in Sy.No.112/1 the court commissioner explaining his inability for demarcating the said land due to technical reason submitted report demarcating the other properties.

3. Respondents 6 and 9 filed counter statement to the commissioner report and submitted that the commissioner without demarcating all the properties submitted the report, as per which suit schedule properties cannot be partitioned. Furthermore, the respondents 6 and 9 preferred R.S.A.1813/2022 which

is pending for disposal. Therefore, respondents 6 and 9 prayed for rejection of the commissioner report.

4. Petitioner No.1 filed a memo that 10 guntas of land in Sy.No.112/1 has been acquired for Cauvery Neeravari Nigama Limited and the land bearing Sy.No.112/3 measures 2 acres 20 guntas. Therefore, the petitioner No.1 prayed for demarcation of 2 acres 20 guntas in Sy.No.112/3. The R.T.C. enclosed with the commissioner report shows that, 10 guntas of land in Sy.No.112/1 stands in the name of Cauvery Neeravari Nigama Limited. Furthermore the court commissioner himself has submitted regarding poding of survey numbers, as such the court commissioner can be directed to demarcate the available 2 acres 20 guntas of land in Sy.No.112/3. The respondents 6 and 9 have not stated that there is stay on the proceedings. Therefore, the said respondents will not suffer hardship by demarcating the schedule property. Therefore, the following:

ORDER

Issue commissioner warrant to the court commissioner to demarcate 2 acres 20 guntas of land in Sy.No.112/3 as per the preliminary decree passed in O.S.No.14/2014.

Senior Civil Judge, Nanjangud.
05.12.2023.