

FDP No.4/2015

It is pertinent to note that, this court in its order dated 08.09.2025, modified the preliminary decree and directed the office to draw second preliminary decree in OS.No.135/2010.

2. Thereafter, the second preliminary decree was drawn on 25.09.2025 by mentioning the shares of the defendant/respondent No.1 to 9 in respect of the suit schedule properties. In the first preliminary decree, the shares of the defendants/respondents was not allotted.

3. It is worth to note that, the respondent No.2 to 9 remained absent and respondent No.1 and 10 appeared through their counsel. In the meantime, the petitioner filed the IA.No.7 to appoint the commissioner for division of the suit schedule properties as per the preliminary decree passed in the OS.No.135/2010. Moreover, the notice has to be served to the respondents regarding modification of the decree in OS.NO.135/2010 and for the appointment of the commissioner for bifurcation and division in respect of the suit schedule properties. In this regard, the petitioner filed memo and prayed to continue this petition as per the second preliminary decree. However, the modification of the preliminary is not within the knowledge of the respondent No.2 to 9. Furthermore, commissioner has to be appoint for bifurcation and division of the suit schedule properties as per the second preliminary decree. Therefore, in order to avoid the ambiguity in the Final Decree and in the interest of justice and equity, it is necessary

to file a fresh Final Decree Proceedings against the respondents as per the second preliminary decree passed in OS.NO.135/2010. Hence, this court proceed to pass the following;

ORDER

The petition filed by the petitioner is hereby dismissed with a direction to file a fresh petition against the respondent No.1 to 10 as per the second preliminary decree passed in OS.NO.135/2010.

Pending applications if any, also stands disposed of.

(YOGESHA M.R)
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.