

ORDERS ON I.A No.5

This is an application filed by the 1st respondent under Sec.151 of C.P.C seeking permission to file objection to the main petition. I.A No.5 is supported by an affidavit sworn to by the respondent No.1.

2. On 07.01.2017 the counsel for respondent No.2 has submitted no objection to I.A No.5. On 16.01.2017 the counsel for petitioner has filed consolidated objection opposing I.A No.5.

3. Having heard, the following **POINT** that would arise for my determination is:

***Whether the respondent No.1
has made out grounds for
condoning the delay in filing of
the objection to the main
petition?***

4. My answer to the above **POINT** is in the **AFFIRMATIVE** for the following:-

REASONS

5. Admittedly the petitioner has filed the instant petition for drawing of final decree in terms of preliminary decree passed by this court in O.S No.77/2006 which has been modified by the Hon'ble Fast Track IV - Court, Mysuru

in R.A No.382/2006. It is the case of respondent No.1 that after dismissal of his appeal, he contacted Bengaluru Advocate in order to prefer appeal and his advocate informed to bring all the certified copies and ultimately informed him that instead of filing RSA to file objection in FDP petition itself as the petition is not maintainable. As such there was delay in filing of objection to the petition. As stated supra, the respondent No.2 has no objection to I.A No.5. Though the petitioner has filed objection, in the considered opinion of this court an opportunity is to be given to the respondent No.1 to file his objection to the main petition to contest the petition on merits. So far as the delay in filing of objection is concerned, the petitioner could be compensated in terms of cost. Accordingly, the above **POINT** is held in the **AFFIRMATIVE**, in the result, the following:-

ORDER

I.A No.5 filed by the respondent No.1 under Sec.151 of C.P.C is hereby **ALLOWED** on cost of Rs.500/-.

His objection to the main petition is taken on record.

**Sr. Civil Judge & JMFC,
T.Narasipura.**

ORDERS ON I.A No.8

This is an application filed by the respondent No.3 under Sec.151 of C.P.C seeking permission to file objection to the commissioner report. I.A No.8 is supported by an affidavit sworn to by the respondent No.3. It is noticed that the petitioner or the other respondents have not at all filed any objection to I.A No.8.

2. I have heard and perused the material placed on record.

3. Admittedly the court commissioner has submitted his report for having made separation of shares of parties in terms of preliminary decree. The respondent No.3 is requesting the court to file objection to the commissioner report. None have filed objection to I.A No.8. Hence, I find no reasons to disbelieve the grounds stated in the affidavit filed in support of I.A No.8. Hence, I proceed to pass the following:-

ORDER

I.A No.8 filed by the respondent No.3 under Sec.151 of C.P.C is hereby ***ALLOWED.***

His objection to the commissioner report is taken on record.

To hear further arguments on I.A
No.6 & 7 by 06.12.2018

**Sr. Civil Judge & JMFC,
T.Narasipura.**