

**ORDER ON I.A.NO.I FILED UNDER ORDER 26 RULE 9 READ
WITH SECTION 151 OF C.P.C.**

The applicant/petitioner No.1 has filed the I.A.No.I under Section 26 Rule 9 read with Section 151 of C.P.C., praying to appoint the Taluk Surveyor of T.Narasipura as Court Commissioner, to execute the preliminary decree by demark the suit schedule property and to give separate possession in accordance with the preliminary decree and to submit report.

2. In the I.A.No.I it is stated for the reasons mentioned in the accompanying affidavit that, the plaintiffs have filed a suit in O.S.No.362/2022 before this Court, for partition and separate possession by metes and bounds of 1/3rd share of the plaintiffs in the suit schedule property. The suit has been decreed on 10.03.2023. This court has passed the preliminary decree. Hence, he has filed this petition for final decree. Hence he has prayed to appoint the Court Commissioner. Further stated that, if the application is allowed, no prejudice would be caused to the opponents/respondents. If not allowed petitioners would be put to great hardship and legal injury. Accordingly, prays to allow I.A.No.I.

3. On the other hand the learned counsel for respondents submits that, he has no objection to allow the application.

4. Heard and perused the materials available on record.

5. This final decree petition is filed in view of the preliminary decree passed in O.S.No.362/2022 which was filed seeking relief of partition and separate possession of 1/3rd share of the plaintiffs/petitioners herein. Further in O.S.No.362/2022 the parties have filed joint compromise petition under order 23 rule 3 of C.P.C. Further this court was allowed the compromise petition and decreed the suit in terms of compromise petition. Notice was issued to the respondents in the above proceedings and they have appeared through their counsel, they have submits that, they have no objection to allow this I.A. Hence, it is necessary to appoint

Taluk Surveyor as Court Commissioners to carve out the share of petitioners in suit schedule property. Hence, I proceed to pass the following:-

:: O R D E R ::

I.A.No.I filed by the applicant/petitioner No.1 under Section 26 Rule 9 R/w Section 151 of C.P.C is hereby **allowed**.

The Taluk Surveyor, T.Narasipura Taluk, is appointed as Court Commissioner to carve out share of petitioners and respondent in the suit schedule property as per preliminary decree passed in O.S No.362/2022.

The fee for the Commissioner is tentatively fixed at Rs.2,000/-.

The Commissioner fee is to be paid by the petitioners.

The Commissioner is hereby directed to issue notice to both the parties.

Parties are directed to provide necessary documents to the Court Commissioner.

Office is directed to issue commissioner's warrant along with the warrant, petition, copy of preliminary decree and copy of order on I.A.No.I.

Await Report by: 24.11.2023.

**Addl. Civil Judge & J.M.F.C.,
T.Narasipura. ****