

ORDERS ON IA No.1 FILED UNDER ORDER 26 RULE 13 R/W
151 OF CPC

The present application is filed by the petitioners by seeking appointment of Taluk Surveyor to effect partition as per preliminary decree. Along with the application the affidavit is also filed by the petitioner No.1 in support of the application.

The application is filed by the petitioners seeking appointment of court commissioner to effect partition as per the preliminary decree passed in Judgment and Order dated 11.08.2023 arising out of OS No.121/2023 (Old No.145/2017).

After due service of notice on main petition, the respondent No.1, 2, 4 to 7 appeared through their counsel. The respondent No.3 and 8 remained absent.

The respondent No.1, 2, 4 and 7 filed objections to main petition and contended that they have preferred appeal on the Judgment and decree passed in OS No.121/2023 and the same is pending before Hon'ble Principle District and Sessions Judge, Raichur for consideration. Hence, prays for dismissal of the petition.

The same objections were filed to the IA No.1 also.

Learned counsel for respondent No.1 filed memo along with copy of appeal memo in RA No.11/2026 on the file of Hon'ble Principle District and Sessions Judge, Raichur and also filed copies

of IA and order sheet. But on perusal of the same there is no stay of the Judgment and Decree passed by this Court in OS No.121/2023.

Heard the learned counsel for the petitioner and respondent no.1, 2, 4 to 7. The judgment passed in OS No. 121/2023 dated 11.08.2023 does not appeared to have been set aside by the appellant Court. There is no stay of the Judgment and preliminary decree. Hence there is no legal impediment to allow the present application as such the following order is passed:

ORDER

“The Ia-I Filed Under Order 26 Rule 13 R/W 151 Of Cpc Is Hereby Allowed.

The ADLR, Manvi is appointed as the Court Commissioner for effecting partition in accordance with the preliminary decree passed in OS No.121/2023 (Old No.145/2017) dated 11.08.2023.

The Commissioner fee of commissioner is tentatively fixed at ₹.2000/-.

The office is hereby directed to issue Commissioner Warrant to the court commissioner if P.F. is paid and Commissioner fee is deposited.”

Await report.

Call on : 09.07.2026.

Senior Civil Judge & JMFC,
Manvi.