

**.Orders on I.A. filed u/O.26 R.9**  
**r/w.Sec.151 of CPC**

The counsel for the petitioners has filed this application seeking appointment of AEE, PWD department, Arasikere, Hassan District as court commissioner to survey the petition schedule item No.2 house property and to submit the report.

2. In support of the application, the first petitioner has filed affidavit stating that they filed OS.No.08/2011 for partition and accordingly the said suit was decreed by awarding 1/7<sup>th</sup> share to them and now the said property has to be divided as per the preliminary decree and hence prayed for allowing this application.

3. The respondents and their counsel are not appearing before this court and has not filed objections to the application.
4. I have perused the materials on record.
5. The following points arise for my determination;

Whether the petitioners have made out sufficient grounds for appointment of commissioner to divide the petition properties?

What order?

6. My findings to the above points are as under;

In the affirmative,

As per the final order, for the following;

### **REASONS**

7. **Point No.1:-** On the basis of preliminary decree the petitioners

have filed this petition seeking division of the properties. The I.A. needs to be allowed to get conclude the proceedings. In the petition schedule properties Item No.1 is landed property and item No.2 is house property and hence two commissioners need to be appointed to bifurcate those properties as per the preliminary decree. Therefore, to measure the house property AEE, PWD department, Arasikere, Hassan District is appointed as commissioner to divide the Item No.1 and item No.2 of petition schedule property to divide the property as per the preliminary decree. Accordingly, I answer the above point in the affirmative.

8. **Point No.2:** - As per the discussion made above, I proceed to pass the following;

**ORDER**

The application filed by the petitioners u/O.26 R.9 r/w Sec.151 of CPC is hereby allowed.

The AEE, PWD Arasikere, Hassan District is appointed as commissioner to divide the Item No. 2 of petition schedule properties and to divide property as per the preliminary decree.

The commissioners fee is fixed at Rs.1,000/-.

Issue commission warrants to the above commissioners if fee is deposited and P.F paid returnable by

Addl. Civil Judge & JMFC,  
Channaptna.