

Order on I.A.No.V.

The present application U/O XXVI Rule 13 of CPC filed by the petitioner for appointing a survey commissioner to conduct a detailed survey and make partition and schedule A and B properties in accordance with the preliminary decree and submit a record of scheme of partition before the court.

This application annexed with an affidavit sworn by the petitioner and it is contended that this court decreed the suit and declared the share of plaintiff and defendant. This court declared that, 1st defendant is entitled 5/24th share in the schedule A property and thereafter, 1/3rd share of 1st and 2nd petitioner.

Further this court declared 1/3rd share of petitioner in respect of 'B' schedule property. Therefore, this petitioner filed the application to appoint court commissioner divide the properties as per the preliminary decree passed by this court.

Perused the entire order sheet it reveals that non of the respondents filed objection to the said application.

Admittedly, the present suit was decreed by this court and declared plaintiffs and defendants are entitled share in the schedule

property. The petitioner made of grounds to allow the application for appointment of commissioner to make scheme of partition as per the preliminary decree. On the other hand the respondents though have taken sufficient time to application filed by the petitioner not filed any objection but they have got opportunity to file objection to the court commissioner report. Hence, the petition made out grounds to allow the application. Accordingly, the application filed by the petitioner is hereby allowed.

The commissioner ie., Taluka surveyor is hereby appointed as a court commissioner to conduct detailed survey and make partition of schedule A and B properties in accordance with preliminary decree and submit scheme of partition before the Court.

The parties is hereby directed to file their memo of instruction if any. Thereafter, the office is hereby issue court commissioner warrant as per order of this court.

Call on 07.08.2026.

Prl. Civil Judge & JMFC.,
Soraba.