

IN THE COURT OF THE PRL. CIVIL JUDGE AND JMFC.,
AT SORABA

Present : **SRI. RAJU K. SHEDBALKAR.**

B.Com., LL.B.,

Prl.Civil Judge and J.M.F.C, Soraba.

Dated : This 13th day of July, 2026.

FDP.No.17/2022

- Petitioners:**
1. Saroja W/o Suresha,
Aged about 27 years.
 2. Ramya D/o Suresha,
Aged about 15 years,
 3. Radika D/o Suresha,
Aged about 13 years,

Plaintiffs Nos. 2 and 3 are minors and are represented by their natural guardian and mother, plaintiff No.1 Smt. Saroja. All are R/o Samanavalli village, Anavatti Hobli, Soraba Taluk, Shivamogga District.

(By Sri M.R.P-Advocate)

V/s.

- Respondent/s** : 1. Savitramma W/o Nagappa,
Aged about 60 years,
2. Eshwarappa S/o Nagappa,
Aged about 30 years,
 3. Puttu S/o Nagappa,
Aged about 28 years,

4. Chandra S/o Nagappa,
Aged about 40 years,
All are R/o Samanavalli village,
Anavatti Hobli, Soraba Taluk,
Shivamogga District.

(By Sri. Y.G.P., Advocate)

ORDERS ON MAIN PETITION

This instant final decree proceeding suo-moto registered by the office on order of this Court as per preliminary decree in O.S.No.93/2017 dated 24.06.2022.

2. The brief facts fo the petitioner's case is as under:-

The present petitioners are the plaintiffs in O.S.No.93/2017 filed the suit for the relief of partition and separate possession claiming their 1/5th share over the suit schedule properties. In the said suit, after having recorded the evidence of both the parties and hearing arguments, this Court passed a Judgment and Decree on 24.06.2022 partly decreeing the suit and declared that the present petitioners are entitled together 1/15th share each in the schedule property. The defendant No.1 and 4 are entitled 1/15th share each in the schedule properties and defendant No.2 and 3 are entitled 6/15th share in the schedule property. Further perusal the entire materials available on record non of the defendant preferred any appeal against the Judgment and Decree passed by this Court.

3. Further, on perusal the entire materials available on record, it reveals that defendants have not complied the Judgment and Decree passed by this court. Hence, this petition was initiated. Thereafter, this petition got appointed ADLR Soraba as a court commissioner as per Sec.53(a) of CPC to divide the schedule properties as per the scheme of preliminary decree passed in O.S.No.93/2017 dated 24.06.2022.

4. After registering the instant partition notices were issued to the parties, respondent No.1 and 3 appeared through the counsel on 29.11.2022. Thereafter, the petitioner counsel submitted the memo, the respondent No.4 wad died. But further perusal the order sheet this court issued notice to the respondent No.4 by through registered post. Thereafter, the said notice not claimed by the respondent No.4 as discloses on records.

5. I have heard the arguments of both the counsels and perused the materials available on record.

6. The following points would arises for my consideration are as under:-

POINTS

1. Whether final decree can be passed by accepting the report of Court commissioner?
2. What order?

7. My findings to the above points are as under:-

Points No.1: In the **AFFIRMATIVE**.

Point No.2 : As per the final order following:-

REASONS

8. **Point No.1:-** As it would be seen from the materials, it is quit obvious that the suit which was filed by the plaintiff against the defendants, on the file of this court for the relief of partition and separate possession came to be partly decreed. In the said suit, the defendants appeared and contest the suit. Hence, by setting aside all the contentions raised by the defendants, this court partly decreed and declared that plaintiffs are entitled together 1/15th share, defendant No.1 and 4 are entitled 1/15th share and defendant Nos.2 and 3 are entitled 6/15th share in the schedule property.

9. During the pendency of this petition inspite of sufficient opportunity the respondent No.1 and 3 fail to file objection on main petition and as submitted by the counsel of respondent No.1 and 3 not furnished any order or Appellant Court Judgment. Thereafter, this court has been appointed ADLR Soraba as a court commissioner on 26.11.2024 to divide the scheme of partition as per the preliminary decree in O.S.No.93/2017 in respect of schedule property. Thereafter, the ADLR Soraba after identifying the properties prepared map, mahazar and record submitted before the court on 30.08.2025. Further perused the records, petitioner counsel submitted no

objection to the court commissioner report on 04.04.2026. Thereafter, the respondent counsel sought many adjournment to file court commissioner report and furnish appellant court Judgment and Decree.

10. Thereafter, inspite of opportunity, respondent counsel failed to submit objection to the court commissioner report and appellant court Judgment and Decree. Further the entire materials available on record which discloses that the court commissioner ADLR, Soraba identified and demarcation of properties and divided the scheme of partition as per the preliminary decree passed in O.S.No.93/2017. Therefore, there is a no other auction for the court to accepting the report of court commissioner for drawing of final decree and thereby in view of the above said reasons. I am inclined to answer Point No.1 in the ***Affirmative***.

11. **Point No.2:-** In view of the discussion made and answered given to Point No.1, I proceed to pass following:-

ORDER

The suo-moto final decree petition is hereby allowed.

It is ordered that the report and sketches submitted by the ADLR, Soraba on 30.08.2025 in respect of schedule properties

is hereby accepted and shall be part and parcel of the final decree.

Admittedly, Item No.1 of schedule property bearing Sy.No.58/1 situated at Samanavalli village, Anavatti Hobli, Soraba Taluk is divided and allotted is as under:-

- 1) Block No.I measuring 00-04-08 as shown in the sketch shall go to the petitioners/plaintiffs.
- 2) Block No.II measuring 00-04-08 as shown in the sketch shall go to the defendant No.1.
- 3) Block No.III measuring 00-04-08 as shown in the sketch shall go to the defendant No.4.
- 4) Block No.IV(a) & (b) measuring 00-06-08 and 00-20-04 as shown in the sketch shall go to the defendant No.2.
- 5) Block No.V(a) & (b) measuring 00-03-12 and 00-23-00 as shown in the sketch shall go to the defendant No.3.

Item No.2 of schedule property bearing Sy.No.69/1 situated at Samanavalli village,

Anavatti Hobli, Soraba Taluk is divided and allotted is as under:-

1) Block No.I measuring 00-04-08 as shown in the sketch shall go to the petitioner/plaintiff.

2) Block No.II measuring 00-04-08 as shown in the sketch shall go to the defendant No.1.

3) Block No.III measuring 00-04-08 as shown in the sketch shall go to the defendant No.1.

4) Block No.IV measuring 00-26-12 as shown in the sketch shall go to the defendant No.2.

5) Block No.V measuring 00-26-12 as shown in the sketch shall go to the defendant No.3.

House property No.11 divided and shares have been allotted as under:-

1) Block No.I measuring 39.26 as shown in the sketch shall go to the petitioner/plaintiff.

2) Block No.II measuring 39.26 as shown in the sketch shall go to the defendant No.1.

3) Block No.III measuring 39.26 as shown in the sketch shall go to the defendant No.4.

4) Block No.IV measuring 235.51 as shown in the sketch shall go to the defendant No.2.

5) Block No.V measuring 235.51 as shown in the sketch shall go to the defendant No.3.

Office is hereby directed to draw up the final decree, if sufficient non judicial stamp papers are furnished in terms with the sketches provided by the Court commissioner.

The respondents shall be entitled to final decree only if they have paid Court fee.

Office is hereby directed to close this case.

No order as to cost.

(Dictated to the stenographer, transcribed and typed by her, corrected by me and then pronounced in the open Court, this 13th day of July, 2026)

(RAJU K. SHEDBALKAR)
Prl.Civil Judge & JMFC.,
Soraba.