

KASM710003822025



**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC,
SORABA**

PRESENT

SRI.R.CHANDRAPPA HONNUR, M.A.LL.B(Spl.)
Senior Civil Judge and JMFC, Soraba.

DATED THIS THE 3RD DAY OF AUGUST 2026

FDP NO.16/2025

- Petitioners**
1. Sri. Chandrappa S/o. Basavanyappa,
Age: 62 years, Occ: Agriculturist,
 2. Sri. Maheshwarappa S/o.
Basavanyappa, Age: 55 years,
Occ: Agriculturist, both are
R/o. Yalivala Village, Anavatti Hobli,
Soraba Taluk.

(By Sri. C C B., Adv.)
//Vs.//

- Respondents:**
1. Smt. Mokshadayini H.B, W/o. Erappa
H, Age: 71 years, Occ: Housewife,
 2. Tejaswini D/o. Erappa G,
Age: 37 years, Occ: Housewife, R1
and 2 are R/o. Maruthi Badavane, 1st
Main, Navule Savalanga Road,
Shivamogga Town, Shivamogga
District.
 3. Smt. Premilamma W/o. Shivayogeppa
Kanasogi, Age: 66 years,
Occ: Housewife, R/o. Hirekonathi
Village, Hirekeruru Taluk,
Haveri District.
 4. Nagendrappa S/o. Basavanyappa,
Age: 64 years, Occ: Agriculturist,

R/o. Yalivala Village, Anavatti Hobli,
Soraba Taluk.

5. Smt. Suvarnamma W/o.
Basavarajappa Uppinar,
Age: 59 years, Occ: Agriculturist,
R/o. Hithala Village, Shikaripura
Taluk, Shivamogga District.
6. Smt. Manjamma W/o. Basavarajappa
Ontar, Age: 57 years, Occ: Housewife,
R/o. Biliki Village, Talagunda Hobli,
Shikaripura Taluk, Shivamogga
District.
7. Sri. Krishnappa S/o. Bharamappa,
Age: 39 years, Occ: Agriculturist,
R/o. Yalivala Village, Anavatti Hobli,
Soraba Taluk.

(R1 & 2 by Sri. S K., Adv.)

(R3, 5 & 6 by Sri. K S P., Adv.)

(R7 by Sri. K N S., Adv.)

(R4-In person)

JUDGMENT

The petitioners have filed a petition for drawing up the final decree on the basis of the preliminary decree in OS No.10/2024 dated 01.08.2025 passed by this court.

2. Brief facts of the case are as under:

The plaintiffs had filed a suit in OS No.10/2024 for partition and separate possession of their share in the suit schedule properties. The said suit was decreed in part on 01.08.2025. The plaintiffs were allotted a 1/7th share each, the defendants No.1 and 2 were together allotted a 1/7th share and the defendants No.3 to 6 were allotted a 1/7th share each in item Nos.1 to 11 of the suit schedule

properties. Therefore, the petitioners have constrained to file the petition for drawing up the final decree and prayed to allow the petition.

3. In pursuance of the notice, the respondents No.1 to 3 and 5 to 7 appeared through counsel. The respondent No.4 appeared in person. The respondent No.7 has filed objections. The respondents No.1 to 6 have not filed any objections.

The respondent No.7 contended that the petition filed by the petitioners is not tenable in law or on facts. The Hon'ble District Court, Sagara stayed the decree passed in OS No.10/2024 in RA No.10043/2025 in respect of item No.3 of the suit schedule property. The petitioners are not entitled to relief as prayed for in the petition. Hence, the respondent No.7 prayed for dismissal of the petition.

4. In the instant case, the ADLR, Soraba and an advocate commissioner were appointed as court commissioners to prepare a scheme of partition in respect of item Nos.1, 2 and 4 to 11 of the petition schedule properties and to submit their reports in accordance with the preliminary decree passed in OS No.10/2024. Accordingly, the court commissioners have completed their commission work and submitted their reports.

5. The respondent No.7 has filed objections to the report submitted by the ADLR, Soraba.

The respondent No.7 contended that he had purchased RS No.77/1 measuring 28 guntas and RS No.77/3 measuring 1 acre 16 guntas from the respondent No.1 prior to the institution of the suit. The khata of the said properties stands in his name. The respondent No.7 has purchased a total 2 acres 4 guntas from the respondent No.1, the respondent No.1 is entitled to 2 acres 30 guntas in all the suit schedule properties. Hence, the property purchased by respondent No.7 ought to be worked out from the share of respondent No.1 as per the sale deed. The surveyor has not bifurcated the share of the parties in all the survey numbers. Hence, the parties are not able to cultivate the land. The court commissioner has not divided the properties separately by leaving a pathway. Hence, the respondent No.7 prayed for rejection of the report submitted by the ADLR, Soraba.

6. The petitioners as well as the respondents have not led any evidence.

7. Learned counsel for the petitioners and respondent No.7 submitted that their arguments may be taken as heard. Learned counsel for the respondents No.1 to 3, 5 and 6 have not submitted any arguments. Perused the material available on record.

8. The following points would arise for my consideration:

1. Whether the petitioners are entitled for a final decree?
2. What order or decree?

9. My findings on the above points are as follows:

Point No.1 : Partly in the Affirmative

Point No.2 : As per the final order, for the following:

REASONS

10. **POINT NO.1:-** The plaintiffs had filed a suit in OS No.10/2024 for partition and separate possession of their share in the suit schedule properties. The said suit was decreed in part on 01.08.2025. The plaintiffs were allotted a 1/7th share each, the defendants No.1 and 2 were together allotted a 1/7th share and defendants No.3 to 6 were allotted a 1/7th share each in item Nos.1 to 11 of the suit schedule properties hence, this petition. On the other hand, respondent No.7 opposed the petition, contending that the Hon'ble District Court, Sagara, had stayed the decree passed in OS No.10/2024 in RA No.10043/2025 in respect of item No.3 of the suit schedule property. Hence, respondent No.7 prayed for dismissal of the petition.

The petitioners filed a memo stating that their shares and the shares of the respondents No.3, 5 and 6 be allotted on one side.

The respondents No.3, 5 and 6 filed a memo stating that their shares and the shares of the petitioners be allotted on one side.

The respondent No.7 filed a memo stating that he is a bonafide purchaser of item Nos.8 and 9 of the suit schedule properties. He had invested substantial amounts of money and made considerable efforts in developing the said properties. While selling these properties, the defendants No.1 and 2 had assured him that, in the event of any legal complication arising, they would re-imburse him by making suitable arrangements. However, the defendants No.1 and 2 have now betrayed him by not coming to his assistance. The conduct of defendants No.1 and 2 would cause grave injustice and irreparable loss to him. The defendants No.1 and 2 have not deliberately participated in this FDP proceedings. Hence, he prayed that the extent of land purchased by him be allotted from the share of respondents No.1 and 2 in item Nos.1 to 9 of the petition schedule properties.

The respondent No.7 alone opposed the petition by filing objections, contending that decree in respect of item No.3 of the suit schedule property has been stayed by the Hon'ble District Court in RA No.10043/2023. Hence, he prayed for dismissal of the petition. The respondent No.7 also filed objections to the report submitted by the ADLR, Soraba, contending that, if the suit schedule properties are divided as per the report submitted by the ADLR, Soraba, it would be difficult for the parties to enjoy the same.

The claim of respondent No.7 was negatived by this court in OS No.10/2024. The respondent No.7 neither challenged the judgment and decree in OS No.10/2024 nor obtained a stay in respect of item Nos.8 and 9 of the petition schedule properties. Therefore, the objections raised by the respondent No.7 to the main petition as well as to the report submitted by the ADLR, Soraba are not sustainable. The memo filed by respondent No.7 seeking allocation of the land purchased by him from the share of respondents No.1 and 2 in item Nos.1 to 9 of the petition schedule properties is hereby rejected.

On a perusal of the material available on record, it is crystal clear that the court commissioners have visited the spot and prepared a scheme of partition in accordance with the preliminary decree dated 01.08.2025 passed in OS No.10/2024. Since the measurement of item No.1 of the petition schedule property is shown as 3 acres 37 guntas, whereas the RTC of the said land indicates the extent as 3 acres 17 guntas, the ADLR, Soraba has accordingly prepared a scheme of partition for an extent of 3 acres 17 guntas. There are no grounds to reject the reports of the court commissioners.

Based on the discussion made above, I am of the view that the petitioners are entitled to a final decree in respect of item Nos.1, 2 and 4 to 11 of the petition schedule properties in terms of the memo filed by them. The respondents No.3, 5 and 6 are also entitled to allocation of the properties in

terms of the memo filed by them. Accordingly, point No.1 is answered partly in the affirmative.

11. **POINT NO.2:** In view of the finding recorded on point No.1, I proceed to pass the following:

ORDER

The petition filed by the petitioners is partly allowed.

The petitioner No.1 is allotted Block No.1, petitioner No.2 is allotted Block No.2, respondents No.1 and 2 are together allotted Block No.6, respondent No.3 is allotted Block No.3, respondent No.4 is allotted Block No.7, respondent No.5 is allotted Block No.4 and respondent No.6 is allotted Block No.5 in item Nos.1, 2 and 4 to 11 of the petition schedule properties as shown in the court commissioners' reports.

Parties shall bear their respective costs.

Draw the final decree accordingly.

(Dictated to the stenographer directly on the computer, typed by her, corrected and signed by me, and then pronounced in the open court on this the 3rd day of August 2026)

(SRI. R.CHANDRAPPA HONNUR)
Senior Civil Judge & JMFC, Soraba

ANNEXURE

Witnesses examined on behalf of the petitioners:

- Nil -

Documents marked on behalf of the petitioners:

- Nil -

Witnesses examined on behalf of the respondents:

- Nil -

Documents marked on behalf of the respondents:

- Nil -

(SRI. R.CHANDRAPPA HONNUR)

Senior Civil Judge & JMFC, Soraba