



**IN THE COURT OF PRL. CIVIL JUDGE AND JMFC.,**  
**KUNIGAL**

**:-PRESENT:-**

**Smt. Sujatha A.B**, B.A.L., L.L.B.,  
 Prl Civil Judge & JMFC., Kunigal.

**Dated:This The 29<sup>th</sup> Day of July, 2026**

**F.D.P. No.06/2017**

Petitioner : Hulluramma

**V/s**

Respondents : Kalamma & others

|      |                                                                 |                              |
|------|-----------------------------------------------------------------|------------------------------|
| I.   | Provision under which the application is filed                  | Under section 151 of CPC     |
| II.  | Relief sought for                                               | To modify preliminary decree |
| III. | The date on which the application is filed                      | 28.08.2024                   |
| IV.  | Number of the application                                       | II                           |
| V.   | The date on which the objections are filed by                   | Objection not filed          |
| VI.  | The date on which the order were passed on the said application | 29.07.2026                   |

**RANK OF THE PARTIES ON I.A. No.II**

Applicant : Hulluramma

**V/s**

Opponents : Kamma & others

**ORDERS ON I.A.No.II FILED BY THE PETITIONER  
UNDER SECTION 151 OF C.P.C**

The petitioner has filed this application under Section 151 of CPC to modify the preliminary decree by allotting 1/6th share to the petitioner in suit schedule properties in accordance with law .

**2.** In the affidavit, annexed along with application, petitioner has stated that she has filed the present Final Decree Proceeding petition seeking to draw final decree in terms of preliminary decree passed in O.S. No.249/2012 and in the said suit the court relied on the decision of Hon'ble Supreme court case by giving finding that the plaintiff and defendant No.4 are entitled for share in their father's share by way of Notional partition and further the



plaintiff, defendant No.2,3 and 5 being coparceners are entitled for equal share i.e., 1/5th share each in the suit schedule properties and the plaintiff and defendant No.1 being class one heirs of Late Naganahallaiah are entitled for equal share in their father's share along with Late Hulluraiah and defendant No.2,3 and 5 i.e., 1/6th share in 1/5th share that comes to 1/30th share each in the suit schedule properties.

**3.** Petitioner further contended that, subsequently the Hon'ble Supreme court on 11.08.2020 held in Vineetha Sharma V/s. Rakesh Sharma case reported AIR 2020 Supreme Court Page 3717, that the amendment granting equal coparcenary rights to daughters is retroactive, so not withstanding that a preliminary decree has been passed the daughters are to be given share in coparcenary equal to that of a son in pending proceedings for final decree. Hence petitioner contended that it is just and necessary to modify the said preliminary decree passed in



the said suit. The petitioner contended that if the application is not allowed she will be put to irreparable loss and injury which cannot be compensated and if the same is allowed no harm or injustice would be caused to the respondents. Accordingly she prayed to allow the application.

4. Respondent No.1 to 3 and 5 submitted have no objections to allow the application, on the other hand, in spite of service of notice the respondent No.4 has failed to appear before the court.

5. Heard arguments.

6. In light of the above contentions, the infra points that would arise for the determination.

1. "Whether petitioner has made out a case to modify the preliminary decree passed in O.S.No.249/2012?

2. What order?

7. My findings on the above points are as under:

**Point No.1:** In the ***Affirmative***

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

**::REASONS::**

**8. Point No.1:** The petitioner herein had filed a suit vide O.S.No.249/2012 for the relief of partition and separate possession in respect of suit schedule properties against the respondents herein. It is decreed that the petitioner and respondent No.4 are entitled for 1/30th share each, husband of the respondent No.1 by name Huluraiah and respondent No.2,3 and 5 are declared 1/5th share each in the suit schedule properties. Now the petitioner has contended that, in view of decision of Hon'ble Supreme court in Vinitha Sharma V/s. Rakesh Sharma, daughter is also coparcener and having equal right to that of a son and her share is to be enhanced. I have gone through the decision of Vineeth Sharma V/s Rakesh Sharma case reported AIR 2020 Supreme Court Page 3717, with due respect wherein Hon'ble Supreme court of India has held that daughters have equal coparcenary rights in ancestral property by birth, and they



ruled that Section 6 of the Hindu Succession (Amendment) Act, 2005 applies retroactively, meaning a daughter is a coparcener by birth, just like a son, even if her father died before 2005.

9. Since respondent No.1 to 3 and 5 submitted have no objections to the application, on the other hand, inspite of service of notice the respondent No.4 has failed to appear before the court. It is to be noted here that, there is no bar to draw as many as preliminary decrees under the provisions of law. In view of the above reasons application filed by the petitioner deserves to be allowed. Accordingly, point No.1 is answered in the ***Affirmative.***

10. **Point No.2:** In view of the above findings and point No.1, I proceed to pass the following:

**::ORDER::**

The application filed by the petitioner for modification of preliminary decree passed in O.S.No.249/2012 is hereby allowed.



The petitioner herein ie, plaintiff in O.S.No.249/2012 is entitled to 1/6th share in the suit schedule properties.

Respondent No.1 to 5 ie, defendant No.1 to 5 in O.S.No. 249/2012 are entitled to 1/6th share each in the suit schedule properties.

Office to draw fresh preliminary decree.

[ Dictated to the stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the **29<sup>th</sup> day of July, 2026**]

**Sd/-  
( Sujatha A.B. )  
Prl. Civil Judge and JMFC,  
Kunigal.**