

Dated : 22-03-2024

Petitioner : PDT

Respondent : 1-Exp/2 to 4-SBR
5 to 8-Absent

For Orders,

ORDERS ON I.A. No.I FILED BY PETITIONER
UNDER ORDER 26 RULE 13 R/W ORDER 20 RULE 18 OF C.P.C

This is an application filed by petitioner praying this court to appoint a Taluk Surveyor to attached ADLR, Madhugiri as court commissioner to measure the landed properties demarcate shares of the petitioner.

2. In the affidavit annexed to the application, petitioner averred that he filed this petition to measure the landed properties and demarcate his share as per the Preliminary Decree passed in O.S.No.215/2019 pertaining to suit properties. The appointment of Surveyor as court Commissioner is very important in order to proper adjudication of the matter and on these grounds, prayed for allow the application.

3. In spite of service of notice the respondent No.1, 5 to 11 did not appear before the court, the notice served to the respondent No.2 to 4 are appear through their counsel by they did not file any objection to said application.

4. Heard, perused the records placed before the court.

5. The points that arise for my consideration are as under:

1. Whether petitioner has made out sufficient
grounds to allow the application?

2. What order ?

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

Point No.1..... In the Affirmative,

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

REASONS

7. **POINT No.1** : Admittedly this Petition came to be filed by the petitioner to draw Final Decree as per the as per the Judgment dated 08-03-2021 passed in O.S.No.215/2019 and to appoint The Taluk Surveyor attached to the ADLR, Madhugiri Taluk as Commissioner to measure the landed properties demarcate the shares of the parties. Further as per preliminary decree passed in O.S.No.215/2019 the petitioner is entitled $1/5^{\text{th}} + 1/30^{\text{th}}$ share in the suit schedule properties. Moreover the respondents have not challenged the preliminary decree passed by this court till today. Further it goes to show that the appointment of Technical Commissioner / Surveyor is very much necessary in this case for demarcate the petition of schedule properties. Sufficient grounds have been made out by Petitioner to allow the application. Accordingly, I answer point No.1 in the 'Affirmative'.

8. **POINT No.2** : For the reasoning's and findings given to point No.1, I proceed to pass the following :

ORDER

I.A. No.I filed by Petitioner under Order 26 Rule 13 R/w Order 20 Rule 18 of C.P.C. is hereby allowed.

Taluk Surveyor attached to the ADLR, Madhugiri Taluk is hereby appointed as Technical Commissioner to demarcate the petition schedule properties and to submit his report as per preliminary decree passed in O.S.No.215/2019 dated 08-03-2021.

The commissioner fees fix the Rs. 2,000/- the petitioner shall borne the commissioner fee after that issue commissioner warrant to execute the commissioner work and submit his report by

(Typed to my dictation by the Stenographer directly on Computer, then corrected, printout taken, signed by me and then pronounced in the open court on this **22nd day of March 2024**)

Sd/-
(Raghunatha Gowda K.T.)
Prl. Civil Judge & JMFC,
Madhugiri.