



**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND JMFC.,
TIPTUR**

PRESENT : SMT. MADHUSHREE G. S., B.COM., LL.B., LL.M.,
ADDITIONAL CIVIL JUDGE,
TIPTUR

THIS THE 10th DAY OF AUGUST, 2026.

F.D.P. NO. 07/2019 (O.S.No.326/2011)

- 1. Shanthamma** (Ori. Pltff)
W/o G.K.Shivappa
D/o Appannagowda
Aged about 53 years
R/at Gungurumale
Nonavinakere Hobli
Tiptur Taluk
- 2. Choodamani** (Ori. Pltff)
W/o Puttaswamy
D/o Appannagowda
Aged about 45 years
C/o Shanthamma
R/at Gungurumale
Nonavinakere Hobli
Tiptur Taluk
- 3. Jamuna** (Ori. Pltff)
W/o Rangaswamy
D/o Appannagowda
Aged about 43 years
R/at Lakkarasanahalli
Nuggehalli Hobli
Channarayapattana Taluk

... **Petitioners**

(By Sri. S.S., Adv)



-Vs-

- 1. Doddamma** (Ori. Deft No.1)
W/o Late.Appannagowda
Aged about 83 years
R/at Makanahalli
Nonavinakere Hobli
Tiptur Taluk
- 2. Asha** (Ori. Deft No.2)
W/o Late.Devaraju
Aged about 38 years
- 3. Nithin** (Ori. Deft No.3)
S/o Late.Devaraju
Aged about 17 years
- 4. Nisha** (Ori. Deft No.4)
D/o Late.Devaraju
Aged about 15 years
Respondents No.3 & 4 are minors
and are represented by natural guardian
next friend mother Asha
Respondent No.2 to 4 are
R/at Giddegowdanakoppalu
Gandasi Hobli
Arasikere Taluk
Hassan District
- 5. Meenakshi** (Ori. Deft No.5)
W/o Chandrashekar
D/o Appannagowda
Aged about 51 years
R/at D.No.9/3, 9th Cross
Muneshwara Temple Road
Keshava Nilaya
Goraguntepalya
Bengaluru-22.

**6. Indiramma****(Ori. Deft No.6)**

W/o Chandrashekaraiah
D/o Appannagowda
Aged about 49 years
R/at Basavanahalli
Dabbeghatta Hobli
Turuvekere Taluk

... Respondents**(By Sri.G.P.P., Adv for R1)****(By Sri. P.V., Adv for R2)****(By Smt. F.K., Adv for R6)****ORDER**

This Final Decree Petition has been filed U/Sec. 54 of CPC by the petitioners / plaintiffs for drawing the final decree in respect of the preliminary decree drawn in O.S.No.326/2011 on the file of Additional Civil Judge, Tiptur.

2. The description of petition schedule properties is as follows ;

1. Land bearing Sy.No.70/1A measuring 1-20 guntas
2. Land bearing Sy.No.74 measuring 2-10 guntas

Both the properties are comes under a common boundary bounded by East : land of Mallamma's Doddaiiah, West : Land of Doddalingamma and Road, North : Land of Rajanna and Puttaiah and South : Land of Sannananjegowda and Nanjegowda situated at Makanahalli, Nonavinakere Hobli, Tiptur Taluk

(Hereinafter referred to as the petition properties).



3. **Averments of the petition are that :** The plaintiffs / petitioners herein had filed a suit against the defendants / respondents herein for the relief of partition and separate possession in O.S.No.326/2011 which one, came to be decreed on 17.11.2018. Despite the decree, respondents have not obeyed the said order and have not come to effect the partition. The respondents are avoiding to perform their part of obligation as per the Judgment and Decree. The petitioners are entitled for final decree as contemplated under law. It is essential to effect the partition and to deliver the share of petitioner and thereby, sought to allow the petition.
4. Upon filing of the petition, this Court issued notices to the respondents and the same were duly served upon them. On receipt of notice, the respondents appeared before the Court through their counsel but did not choose to file objection.
5. Upon the application filed U/Order 26 Rule 10(B) of CPC filed by the petitioner, this Court had appointed the Court Commissioner on 28.03.2023. In pursuance of this Order, the Court Commissioner has carried out the commission work and submitted the commissioner's report on 30.08.2025.
6. Secured the commissioner's report dated 30.08.2025 and perused.
7. The learned counsel for the petitioner filed an objection contended that the commissioner has submitted report by effecting partition of suit schedule property in to 6 shares. By oversight in the operative portion of the order it has been mentioned as 1/6th share instead of 1/7th



share. During the pendency of suit 1st defendants was demised after his demise his wife came on record as Lr of deceased of defendant No.1. The children of defendant No.1 were already on record at the time of filing the suit itself. But the decree was passed 1/6th share instead of 1/7th share and the same is bonafide. The arithmetical error is to be rectified at the time of drawing final decree. The commissioner has to divide suit schedule properties into 1/7th share instead of 1/6th share. As such the commissioner report it to be refer back for proper allotment of share. Hence, prays to referring back the same to the commissioner for proper allotment of shares.

8. Heard.

9. Having heard and perused, the following points arise for consideration of this Court.

1. Whether the petitioner / plaintiff has made out sufficient grounds for drawing the final decree in respect of petition properties ?
2. What order or decree?

10. The findings of this Court on above points are as under:

Point No.1	:	In the Affirmative
Point No.2	:	As per the final order for the following ;

REASONS



11. POINT NO.1 : It is the specific case of petitioners / plaintiffs that they had filed the suit against the defendants / respondents herein for the relief of partition and separate possession in O.S.No.326/2011, which one, came to be decreed on 17.11.2018. Despite the decree, respondents have not obeyed the said order and have not come to effect the partition. In response to notices, the respondents appeared before the Court through their counsel, but they did not file the objection to this petition. In addition to it, Upon the application filed U/Order 26 Rule 10(B) of CPC filed by the petitioner, this Court had appointed the Court Commissioner on 28.03.2023. In pursuance of this Order, the Court Commissioner has carried out the commission work and submitted the commissioner's report on 30.08.2025. However, the petitioners have filed objections to the Commissioner's report contending that the Commissioner has allotted a 1/6th share to the petitioners, whereas, during the pendency of the suit, Defendant No.1 died and his wife was brought on record. His children were already on record as Petitioner Nos.1 to 3. Therefore, the share to be allotted to the petitioners ought to be 1/7th each. Upon perusal of the Commissioner's report, it is noticed that the Commissioner has allotted a 1/6th share to the petitioners. It is further noticed that Respondent No.2 to 4 have been allotted the share of Devraj and that shares have also been allotted to Respondent Nos.5 and 6. However, Respondent No.6 is the second wife of Chandrashekar, and in the presence of the first wife, she cannot be allotted a share in the present proceedings. Therefore, instead of Respondent No.6, the share ought to be allotted to Respondent No.1. However, in the judgment and decree passed in the O.S., this Court has only declared that the plaintiffs are entitled to a 1/6th share.



12. The present final decree proceedings are being drawn only in respect of the petitioners' shares, as the shares of the defendants were not allotted in the original suit. Therefore, the present final decree is **confined only to the shares of the petitioners**. Hence, the above point is answered in Affirmative.
13. **POINT NO.2** : For the aforesaid discussion on Point No.1, this Court proceeds to pass the following:

ORDER

The Petition filed U/Sec. 54 of CPC by the petitioner is hereby allowed.

The Commissioner's report in respect of of the petition properties shall be part and parcel of the final decree only with respect to share of petitioners.

Draw final decree accordingly.

(Dictated to the stenographer directly on computer and the same revised and corrected by me in my laptop and pronounced in the open Court on this the 10th day of August, 2026.)

(MADHUSHREE G. S.,)
ADDITIONAL CIVIL JUDGE,
TIPTUR