



- 3) Kishor S/o. Gurunath Gaonkar  
Major
- 4) Smt. Sadhana @ Sema Sanjay Naik  
Age: Major
- 5) Smt. Suvarna Sundesh Naik,  
Age: Major

Respondent No.1 to 5 are R/o: Teacher's Colony, Baad, Karwar.

- 6) Smt. Vardha W/o. Narayan Gaonkar, Major
- 7) Amit S/o. Narayan Gaonkar  
Major
- 8) Umashankar S/o. Narayan Gaonkar, Major

Respondent No.6 to 8 are  
R/o: Amadalli, Karwar.

(By Sri.G.P.T.,Adv)

**-: ORDER :-**

This petition is filed under Section 54 and Order 20 Rule 18 of CPC, to effect partition and allot share as per the preliminary decree, in the suit properties by metes and bounds and to put the plaintiffs in the possession of their shares.

2. It is stated in the petition that the petitioners have filed O.S.No.103/2012 seeking partition and separate possession of their legitimate shares, in the suit properties. The said suit came to be decreed on 28/09/2016 by way of decree. Thereafter the respondents have not bothered to effect partition by metes and bounds. Hence, the present petition is filed.

3. On perusal of the records placed before the Court it is apparent that the notices were served on the defendants/Respondents, respondents appeared and filed objection to the petition. Thereafter this court by its order dt: 8/11/2017 appointed Tahasildar Karwar as court commissioner and issued commission warrant to divide the property as per the decree. The commissioner submitted his report. The petitioner has filed his objections to the report. The respondents have not filed any objection to the commissioner's report and map.

4. Heard learned counsel for the petitioner and respondent and perused the materials placed before the court.

5. The following points arise for my consideration:

1. Whether the report submitted by the court commissioner is in accordance with law and as per the compromise decree?
2. What order or decree?

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

Point No.1: In the affirmative

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

**:- REASONS :-**

7. **Point No.1:** On perusal of the records it is apparent that the petitioners herein have filed O.S.103/2013, seeking partition and separate possession of plaintiffs' share in the suit properties. This court on considering the relevant oral and documentary evidence on record has decreed the suit and preliminary decree is passed. In pursuance to the decree passed the petitioners herein filed this final decree petition seeking final decree as per the terms of the decree.

8. It is also apparent from the record that this Court by its order dated 8/11/2017 appointed the Tahashildar, Karwar, as court commissioner to divide the suit properties by metes and bounds as per decree. In pursuance to the warrant issued by this court, the Tahasildar Karwar (Commissioner) has executed the commission work and submitted his report to the Court. The respondents have not filed any objections to the report.

9. The petitioners have filed their objections and in the objections it is stated that the cream property is given to the respondents and survey No. 76/1 is not divided and no provision has been made for passage in the report and the house property is not properly divided. As the report is not prepared in accordance with law, the petitioners seek for disregarding the report and call for fresh report.

10. On perusal of the report, it can be seen that survey No. 76/1 is divided and is shown in the map with proper division and the road has been provided in the report and panchanama is signed by the petitioner also which has specific mention of 3 feet passage way. Moreover, nothing is produced to show that cream property is allotted to the respondents and therefore I am of the opinion that there is no substance in the objections raised by the petitioners and the report submitted by the commissioner is in accordance with decree. Hence, report is accepted by this Court.

11 **Point No. 2:** I have perused the report and satisfied. Hence, in view of above discussion and considering materials placed before the Court, this Court proceeds to pass the following;

**ORDER**

The petition filed under section 54 and order 20 rule 18 of CPC hereby is allowed.

The report submitted by the Court Commissioner is accepted.

Draw final decree in consonance with the report submitted by the Court Commissioner, if non judicial stamp furnished.

Issue intimation to the Tahasildar to effect entries in the revenue records as per survey sketch.

The petitioners are directed occupy the share allotted to them as per sketch at once. They are directed to file necessary execution petition for obtaining the possession of the same, if respondent not handed over the possession within 3 months from today or caused any obstruction.

Respondents are directed to file necessary application to put up the present file if the petitioners not received the property allotted to them, after 3 months from today.

If the either parties not filed any application for the possession of the same, it will be deemed that the possession is already handed over to the petitioner as per decree and sketch.

Commissioner report shall be the part and parcel of this decree.

Draw final decree accordingly.

No order as to costs.

(Dictated to the stenographer directly on system, corrected, signed and then pronounced in the Open Court on this 22<sup>nd</sup> day of June 2019.)

(Vivek Gramopadhye)  
Prl.Civil Judge, Karwar

{SNB}