

**IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC.,
KUMTA, AT KUMTA**

PRESENT: Narendra B.R, B.Sc.LLB.

C/c Addl. Civil Judge, Kumta.

F.D.P.NO.16/2019

Dated this the 29th day of October, 2021.

PETITIONER: 1. Narayan Ganapati Naik,
Aged about 57 years,
R/at Baggon, Now at Urakeri,
Tal.Kumta.

(By Sri. D.S.B, Advocate)

V/s

RESPONDENTS:1. Madev Ganapati Naik,
Aged about 68 years,
R/at Baggon, Tal.Kumta.

2. Shridhar Ganapati Naik,
Aged about 55 years,
R/at Near Govt.Higher Primary School,
Kalabhag, Tal. Kumta.

3. Padmavati w/o Nagappa Naik,
Aged about 66 years,
R/at Brahmuru paiki Gadagar,
Tal. Ankola.

**4. Nagaveni @ Nagamma w/o
Narayan Naik,**

Aged about 63 years,
R/at Anand Nilaya, Kugti Nagar,
Bandar Road, 2nd cross, Bhatkal.

5. **Sushila @ Sumitra w/o Dinakar Naik,**
Aged about 53 years,
R/at Toppalkeri, Karki, Tal. Honnavar.

(By Shri N.K.S., Advocate)

ORDERS ON FINAL DECREE PETITION

The petitioner has filed the present petition seeking for demarcation and division of schedule properties in accordance with the terms of preliminary decree by appointment of court commissioner. In the petition it is stated that the petitioner has filed the suit in O S No 132/2014 seeking the relief of partition and separate possession which was decreed vide judgment and decree dated 16.03.2019 and preliminary decree was also drawn. The petitioner was held entitled to 1/6th share in the petition schedule properties and preliminary decree was passed accordingly. After passing of the preliminary decree, the petitioner has filed the present petition for final decree seeking for division of the properties as per the terms of the preliminary decree by appointment of court commissioner

to demarcate and divide the property. Accordingly, Tahsildar, Kumta and AEE, PWD, Kumta has been appointed as court commissioner to demarcate and to provide scheme of partition and to submit the report with respect to the same.

2. The court commissioner submitted the report by suggesting the scheme for division of property between the parties in accordance with the preliminary decree. The petitioner and the respondents have not submitted any objection to the report of the commissioner. The commissioner appointed by the court for division of property has submitted the watap takhhte and B sheet sketch along with the report wherein the property has been demarcated and scheme of division between the parties has been suggested. The mode of division by the court commissioner is in accordance with the preliminary decree and the parties have not submitted any objection to the said demarcation and to the report submitted by the commissioner. The report submitted by the commissioner with respect to the landed properties mentioned in A schedule is in accordance with the terms of the preliminary decree.

3. As far as the report of the commissioner with respect to petition B schedule property is concerned, it is reported that the property is not amenable for division as per the preliminary. It is stated in the report that the property mentioned in B schedule of the petition cannot be

divided into six parts suitably as per the terms of the preliminary decree. As per the report, it appears that the said property cannot be divided into six portions as per the terms of the preliminary decree. The commissioner stated the valuation of the property in the report. It appears just and appropriate to provide opportunity for the parties to purchase the property by virtue of auction between them. It appears just and convenient to conduct auction between the parties with respect to the B schedule property mentioned in the petition as it does not appear convenient to divide the property into six portions. Hence, this court deems it appropriate to pass the following:

ORDER

The report submitted by the commissioner along with wataptakhta and B sheet suggesting the scheme of division of A schedule properties of the petition is hereby accepted.

The wataptakhta and B sheet submitted along with the report forms part of the final decree.

Auction will be conducted between the parties with respect to petition B schedule property.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced in the open Court on this the **29th day of October, 2021**)

Sd/-

(Narendra B.R.)
C/c Addl. Civil Judge, Kumta.

: A N N E X U R E :**List of witnesses examined for Petitioner: NIL****List of documents presented:**

1. Letter issued by ADLR, Kumta
2. Letter to Tahashildar
3. Certified zerox copy of Decree in OS 132/2014
4. RTC extracts
5. Notice with postal receipts
6. Panchanama
7. Watap Takte along with 'B' Sheet

List of witnesses examined for Respondents:

-- NIL--

List of exhibits marked for Respondents :

--NIL--

Sd/-

**C/c Addl.Civil Judge & JMFC.,
Kumta.**