

Orders on I.A.No. I

Petitioners filed the I.A.No.I under Order XXVI Rule 13 r/w Rule 18(2) of Karnataka Civil Rules of Practice and requested to appoint an Advocate as Court Commissioner to divide the petition schedule properties.

In the affidavit, petitioner No.1 namely Sathyendra Shetty stated that, they had filed the O.S.No.42/2012 before this court. After full pledged trial, this court passed the preliminary decree on 16.10.2020. Appointment of Court Commissioner is necessary to divide the property as per preliminary decree. He requested to allow the application.

In the objection respondent No.1 and 2, 4 and 6 contended that, application is not maintainable. Defendant No.1 is requesting to give equity in the proceedings. They requested to dismiss the application.

The contention of petitioners is, they obtained the decree from the hands of this court. The defendant

No.1,2,4 and 6 did not dispute the same. Further contention of petitioner is, they are requesting to appoint the Commissioner to divide the properties. The contention of defendant No.1,2,4 and 6 is, defendant No.1 seeks equity. If the Court Commissioner is not appointed to demarcate the property, it will not possible to draw final decree. At the time of demarcation of the properties, respondent No.1 may get the property which is in his possession. It will not cause effect to the respondent No.1. For these reasons in the opinion of court appointment of Court Commissioner is necessary. Hence, proceed to pass the following:

ORDER

I.A.No.I filed by the petitioners under Order XXVI Rule13 r/w Rule 18(2) of Karnataka Civil Rules of Practice is hereby allowed.

To suggest the name of Court Commissioner.