

ORDER

In this Final Decree petition for partition of schedule property petitioner sought for appointment of commissioner to demarcate schedule properties into 36 fair and equal shares and to allot 7 such share to the petitioner.

Respondents have not filed objection to the main petition and also to the application filed seeking for appointment of Court commissioner. Therefore by allowing the application Court commissioner was appointed and he filed his report along with sketch before the Court after demarcating the shares and allotting share of the petitioner to her.

Respondents No.2,3 and 5 who have appeared before the Court filed objections to the report of the commissioner stating that the allotment of share as 6.03 cents to the petitioner by the commissioner is in correct and without basis and division of the

property as shown in the sketch preventing the respondent from entering the National Highway on all its side is incorrect.

Petitioner however did not file objection and she accepted the commissioner report. Respondents based upon their objections prayed to refer back the objection to the commissioner to calculate the share once again and to revisit the property and to file a fresh report by demarcating the correct share of the petitioner.

Heard.

In the case on hand the commissioner after visiting the schedule property filed his report and sketch before the Court allotting 0.06.30 Acre out of 26 cents. At the time of passing preliminary decree the extent of land available for partition was 0.32 ½ Acre. But the commissioner filed the report stating that 6 ½ cents of land is acquired for widening of National Highway

and the land available for partition is only 26 cents. Contention of the respondent is that only 3 ½ cents have been acquired by the National Highway Authority for widening the National Highway. Even if the extent of land available for partition is 26 cents after dividing the same into 36 shares the extent which has to be given to the petitioner is not 0.06.30 Acre as reported by the commissioner. It is lesser than that because the petitioner is entitled for 7/36 shares.

Therefore in the light of objections filed by the respondents, the said objections have to be referred back to the commissioner to answer the said objections and to file further report. Hence the following;

ORDER

Objections filed by the respondents are referred back to the commissioner to answer the said objections and to file further report.

The commissioner is directed to file his report at the earliest.

The commissioner is permitted to take survey assistance if necessary.

**Prl. Civil Judge & JMFC
Kundapura.**