

**ORDERS ON I.A.NO.I**

This is an application filed by the petitioner U/Order 26 Rule 13 R/w Section 54 of CPC., to appoint Taluk Surveyor/ADLR, Harapanahalli taluk as court commissioner to effect partition and demarcate the suit schedule properties as per the preliminary decree passed in O.S.No.99/2014 in the interest of equity and justice.

2. It is stated in the affidavit that he had filed suit bearing O.A.No.99/2014 for a relief of partition, separate possession and declaration before this court. This court has passed the judgment and decree in O.S.No.99/2014 to allot the share to the plaintiff. The respondent/defendants till today have not given his legitimate share in the suit schedule properties. Now he intended to file I.A to demarcate and measure the respective share of the plaintiff and defendants in the suit schedule properties. It is just and necessary to appoint Taluk Surveyor/ADLR, Harapanahalli as a court commissioner and he is ready to pay the court commissioner fee. If the application is not allowed he will be put to great hardship. Hence, prayed to allow the application.

3. The above application is objected by the respondent No.10.

4. Heard the counsel for the petitioner.

5. On perusal of the material available on record it appears that, this court has passed judgment and decree in favour of the petitioner in O.S.No.99/2014 on 11.06.2019 against the defendants. Thereafter, the defendants did not come forward to allot his legitimate share. Hence, the petitioner has filed this application seeking appointment of court commissioner to demarcate and measure the suit schedule property. As property is agricultural land, now in order to divide the schedule property as per share declared in preliminary decree, it is necessary to appoint Tahasildar as a court commissioner to demarcate the property for effecting partition as per terms of preliminary decree. In view of contents of petition same deserves to be allowed. Hence, I proceed to pass following:

**ORDER.**

I.A.No.I U/O 26 Rule 13 R/w 54 of C.P.C, is hereby allowed.

The Taluk Surveyor, Harapanahalli taluk is appointed as court commissioner to effect partition and demarcate the suit schedule properties as per the preliminary decree passed in O.S.No.99/2014.

The court commissioner fees  
tentatively fixed Rs.1,000/-.

To deposit court commissioner  
fees.

Call on : 01.12.2023.

Civil judge and JMFC.,  
Harapanahlli

FDP 4-2015

05-08-2015

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**ORDERS ON I.A.NO.I.**

This is an application filed by petitioner under Order 26 Rule 13 read with 54 of CPC, requesting the court to appoint Taluka Surveyor as a court commissioner to measure the landed properties involved in the present petition in order to feasibility of division of said properties as per the share declared in preliminary decree.

2. Copy of the petition is served on other side.
3. Heard the learned counsels for the both sides, perused materials placed before the court.
4. The following points arise for my consideration:
  - 1) Whether petitioner show that, there exists sufficient grounds to appoint court commissioners as prayed for?
  - 2) What order?

5. My answer to the above points are as follows:  
Point No.1 : In the Affirmative.  
Point No.2 : As per final order, for the following:

### **REASONS**

6. **Point No.1**: This is an application filed by the petitioner on the ground that, this court by its order dated: 28-03-2014 in O.S.No.18 of 2013 has decreed the suit. Wherein it is ordered that, Plaintiff is entitled for 1/2 share in respect of the suit schedule mentioned properties by metes and bounds. Now in order to divide the schedule properties as per share declared in preliminary decree, it is necessary to appoint Tahasildar as a court commissioner to measure the properties for effecting partition as per terms of preliminary decree. In view of contents of petition same deserves to be allowed. Hence, I answer **point No.1 in the Affirmative.**

7. **Point No.2**: On above made discussion on points No.1, I proceeded to pass following:

### **ORDER.**

I.A.No.I filed by the petitioner U/O 26 Rule 13 r/w 54 of C.P.C is hereby allowed.

The Tahasildar, Ranebennur is appointed as court commissioner to measure the suit schedule mentioned properties, with regard to feasibility of division of said property as per preliminary decree.

The court commissioner fees tentatively fixed Rs.1,000/-

To deposit court commissioner fees.

Call on : 25-08-2015.

Civil judge and jmfc Hangal

FDP 1-2015

01-08-2015

**ORDERS ON I.A.NO.I.**

This is an application filed by petitioner under Order 26 Rule 13 read with 54 of CPC, requesting the court to appoint Taluka Surveyor as a court commissioner to measure the landed properties involved in the present petition in order to

feasibility of division of said properties as per the share declared in preliminary decree.

2. Copy of the petition is served on other side.
3. Heard the learned counsels for the both sides, perused materials placed before the court.
4. The following points arise for my consideration:
  - 3) Whether petitioner show that, there exists sufficient grounds to appoint court commissioners as prayed for?
  - 4) What order?
5. My answer to the above points are as follows:  
Point No.1 : In the Affirmative.  
Point No.2 : As per final order, for the following:

### **REASONS**

6. **Point No.1:** This is an application filed by the petitioner on the ground that, this court by its order dated: 05-11-2013 in O.S.No.436 of 2012 has decreed the suit. Wherein it is ordered that, Plaintiff is entitled for 1/6<sup>th</sup> share in respect of the suit schedule mentioned properties by metes and bounds. Now in order to divide the schedule properties as per share declared in preliminary decree, it is necessary to appoint Tahasildar as a court commissioner to measure the properties for effecting partition as per terms of preliminary decree. In view of contents of petition same deserves to be allowed. Hence, I answer **point No.1 in the Affirmative.**

**7. Point No.2:** On above made discussion on points No.1, I proceeded to pass following:

**ORDER.**

I.A.No.I filed by the petitioner U/O 26 Rule 13 r/w 54 of C.P.C is hereby allowed.

The Tahasildar, Ranebennur is appointed as court commissioner to measure the suit schedule mentioned properties, with regard to feasibility of division of said property as per preliminary decree.

The court commissioner fees tentatively fixed Rs.1,000/-

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To deposit court commissioner fees and to suggest name of the advocate as court commissioner.

Call on :

Civil judge and jmfc Hangal

## **ORDERS ON I.A.NO.I.**

This is an application filed by petitioners under Order 26 Rule 9 read with 154 of CPC, requesting the court to appoint Taluka Surveyor and an Advocate as court commissioners to measure the landed and VPC properties involved in the present petition in order to feasibility of division of said properties as per the share declared in preliminary decree.

2. Copy of the petition is served on other side.
3. Heard the learned counsels for the both sides, perused materials placed before the court.
4. The following points arise for my consideration:
  - 5) Whether petitioners show that, there exists sufficient grounds to appoint court commissioners as prayed for?
  - 6) What order?
5. My answer to the above points are as follows:  
Point No.1 : In the Affirmative.  
Point No.2 : As per final order, for the following:

### **REASONS**

6. **Point No.1:** This is an application filed by the petitioners on the ground that, this court by its order dated: 09-10-2013 in OS.No.270 of 2010 has decreed the suit. Wherein it is ordered that, Plaintiff No.1 being the 7<sup>th</sup> son of Narasappa entitled for 1/6<sup>th</sup> share in respect of the suit 'A'

schedule mentioned properties. The plaintiff No.2 to 7 being the legal heirs of Hemsingh who is 1<sup>st</sup> son of Narasappa are entitled for 1/6<sup>th</sup> share together, plaintiff No.8 & 9 being the legal heirs of Ponasingh who is 2<sup>nd</sup> son of Narasappa are entitled for 1/6<sup>th</sup> share, the defendant No.1 to 3 being the legal heirs of Ramsingh who is 4<sup>th</sup> son of Narasappa are entitled for 1/6<sup>th</sup> share jointly, plaintiff No.10 & 11 being the legal heirs of Venkatsingh who is 5<sup>th</sup> son of Narasappa are also entitled for 1/6<sup>th</sup> share jointly, plaintiff No.12 being the legal heirs of Mohansingh who is 6<sup>th</sup> son of Narasappa is entitled for 1/6<sup>th</sup> share in suit 'A' schedule mentioned properties by metes and bounds. Now in order to divide the schedule properties as per share declared in preliminary decree, it is necessary to appoint Tahasildar and advocate as a court commissioner to measure the properties for effecting partition as per terms of preliminary decree. In view of contents of petition same deserves to be allowed. Hence, I answer **point No.1 in the Affirmative.**

**7. Point No.2:** On above made discussion on points No.1, I proceeded to pass following:

**ORDER.**

I.A.No.I filed by the petitioners U/O 26 Rule 9 r/w 154 of C.P.C is hereby allowed.

The Tahasildar, Ranebennur is appointed as court commissioner to measure the landed property bearing R.S.No.7/2, with regard to feasibility of division of said property as per preliminary decree.

An Advocate of the bar is appointed as court commissioner to ascertain feasibility of division of VPC No.771, 772 & 803 as per preliminary decree.

The court commissioners fees tentatively fixed Rs.1,000/- each.

To deposit court commissioners fees and to suggest name of the advocate as court commissioner.

Call on :

Civil judge and jmfc Hangal

**ORDERS ON I.A.NO.I.**

This is an application filed by petitioner under Order 26 Rule 13 read with 151 of CPC, requesting the court to appoint Taluka Surveyor and an Advocate as a court commissioner to measure the landed and VPC properties involved in the

present petition in order to feasibility of division of said properties as per the share declared in preliminary decree.

The other side for the respondent not appeared before the court, placed exparte.

Heard the learned counsel for petitioner.

Perused the records placed before the court.

On going through the material before the court as per preliminary decree passed in O.S.No.304/2014 dated 30-10-2014 it is declared that, plaintiff No.1 and 2 therein entitled for 1/4<sup>th</sup> share together in petition schedule properties by metes and bounds.

Now, based on above mentioned preliminary decree the plaintiffs have filed present final decree proceedings. As per records the property bearing R.S.No.42-1A measuring 3 acre 13 guntas of Chalageri Village and VPC No.451 of Chalageri Village have to be divided between the parties as per share declared in preliminary decree.

As there is landed property, in order to ascertain division of said property and its feasibility to divide as per terms of preliminary decree, as per section 54 of CPC Tahasildar has to be appointed as court commissioner. In respect of VPC property any practicing advocate can be appointed as court commissioner. Hence, I proceed to pass the following:

**ORDER.**

I.A.No.I filed by the petitioner U/O 26 Rule 13 r/w 151 of C.P.C is hereby allowed.

The Tahasildar, Ranebennur is appointed as court commissioner to measure the landed property bearing VPC No.45-1A, measuring 3 acre 13 guntas with regard to feasibility of division of said property as per preliminary decree.

An Advocate of the bar is appointed as court commissioner to ascertain feasibility of division of VPC No.451 as per preliminary decree.

The court commissioners fees tentatively fixed Rs.1,000/- each.

To deposit court commissioners fees and to suggest name of the advocate as court commissioners.

Call on :

Civil judge and jmfc Hangal