

KAVP500020782025



Presented on : 24-03-2025
Registered on : 25-03-2025
Decided on : 03-06-2026
Duration : 1 years, 2 months, 10 days

**IN THE COURT OF THE PrI.SENIOR CIVIL JUDGE AND JMFC
SINDAGI AT SINDAGI**

Present

Sri. Nagesh K. Moger
B.Com., LL.M.
PrI.Sr. Civil Judge & JMFC, Sindagi

DATED THIS 03rd DAY OF JUNE-2026.

FDP No.18/2025

PETITIONERS:

1. Hafiza @ Afisa W/o. Babu Lashkre,
Age: 89 years, Occ: Nil .
R/o Mangaluru, Tq: Akkalakot,
Dist: Solapur.
2. Jantabi W/o. Chandapatel Patel,
Age: 74 years, Occ: H.H.Work .
R/o. Gubbewad, Tq: Sindagi,
Dist:Vijayapur.
3. Maktumbi W/o. Mehaboob Patel,
Age: 58 years, Occ: H.H.work
R/o Balaganur, Now at Ghanasoli
New Bombay,

4. Fatima W/o. Umar Mulla,
Age: 56 years, Occ: H.H.work
R/o Arjunagi B.K, Tq: Indi,
Dist: Vijayapur.
4. Jaina @ Jainabi W/o. Nairuddin Patel,
Age: 55 years, Occ: H.H.Work .
R/o Balaganur, Now at Ghanasoli,
New Bombay,

Versus

RESPONDENTS :

1. Ramjanbi W/o. Dastagirsab Jamadar,
Age: 67 years, Occ: H.H.Work.
R/o. Balaganur , Tq: Sindagi,
Dist: Vijayapur.
2. Gulab S/o. Dastagirsab Jamadar,
Age: 47 years, Occ: Teacher,
R/o. Balaganur , Tq: Sindagi,
Dist: Vijayapur.
3. Lalsab S/o. Modinsab Jamadar,
Age: 77 years, Occ: H.H.Work.
R/o. Balaganur , Tq: Sindagi,
Dist: Vijayapur.
4. Noorjan W/o Dastagirsab Jamadar,
Age: 67 years, Occ: --
R/o. Balaganur , Tq: Sindagi,
Dist: Vijayapur.
5. Mamataz D/o. Dastagirsab Jamadar,
Age: Major, Occ: H.H.Work.
R/o.Narendra Mhatre Chal , Arjun Wade,
Navi Mumbai, Ghansoli S.O.Ghansoli Thane,
Maharashtra-400701.

6. Saifana S/o. Dastagirsab Jamadar,
Age: Major, Occ: agriculture.
R/o.Narendra Mhatre Chal , Arjun Wade,
Navi Mumbai, Ghansoli S.O.Ghansoli
Thane, Maharastra-400701.
7. Isabi D/o. Dastagirsab Jamadar,
Age: Major, Occ: H.H.Work.
R/o.Narendra Mhatre Chal , Arjun Wade,
Navi Mumbai, Ghansoli S.O.Ghansoli Thane,
Maharastra-400701.
8. Yasmen D/o. Dastagirsab Jamadar,
Age: Major, Occ: H.H.Work.
R/o.Narendra Mhatre Chal , Arjun Wade,
Navi Mumbai, Ghansoli S.O.Ghansoli Thane,
Maharastra-400701.

(Exparte)

ORDER

1. Petition filed the petition U/o 20 Rule 18 R/w.54 of CPC.
2. **Brief facts of the petitioner's case is as under:**

The plaintiffs /Respondent No.1 and 2 have filed suit in O.S.No.62/2011 before this court for partition and separate possession in the suit schedule properties bearing R.S.No.587/2 measuring 11 acre 07 gunta, R.S.No.598/1 measuring 07 acre 33 gunta, R.S.No.598/2B measuring 03 acre 36 gunta (Now all three strips are renumbered in total as R.S.No.598 totally measuring 15

acre 25 guntas) situated at Balaganur village, Tq: Sindagi and this court has decreed the suit of the plaintiffs.

3. On the basis of said judgment the respondent No.1 and 2 had filed FDP No.1/2016 and in the said proceedings the Taluk surveyor has appointed as court commissioner and filed commissioner report by demarcating the $\frac{2}{9}$ th share of deceased Dastigirsab in between his legal heirs ie Respondent No.1,2,4 to 8 but in the said proceedings the shares of petitioner and respondent No.3 are kept in joint and common. Petitioners/ (Defendant No.2 and 8 to 11) who are sisters of deceased Dastgirsab and Lalsab/Respondent No.3 they have each $\frac{1}{9}$ th pre existing right and share in the suit properties. Hence they filed this petition to effect partition and demarcation of each $\frac{1}{9}$ th share of petitioners.
4. petitioner filed this petition for final decree and filed the application for appointment of Talaku Surveyor as a court commissioner to effect the partition in the suit landed properties.

5. After filing the petition, court had issued notice to the respondents. But, Respondents did not appear before the court and placed exparte.
6. Heard and perused records.
7. The following points that arise for my consideration:
 1. Whether the petitioners have made out sufficient grounds to allow the petition ?
 2. What order?
8. My findings on these points is as follows:
 1. In the affirmative
 2. As per final order, for the following:

REASONS

9. **Point No.1:** Learned counsel for the petitioner argued that the plaintiff /Respondent No.1and 2 had filed suit in OS.No. 62/2011 claiming their share in the suit schedule properties. Thereafter court passed the preliminary decree. On the basis of said judgment the respondent No.1 and 2 had filed FDP No.1/2016 and in the said proceedings the shares of petitioner and respondent No.3 are kept in joint and common. Petitioners/ (Defendant

No.2 and 8 to 11) who are sisters of deceased Dastgirsab and Lalsab/Respondent No.3 they have each 1/9th pre existing right and share in the suit properties.

10. In this petition, the court commissioner is appointed. Commissioner has submitted the report in respect of land properties along with documents. Therefore, they prayed to allow the petition and draw the final decree.
11. On perusal of the records, it reveals that, after filing the petition by the petitioner, Taluka surveyor of Sindagi was appointed as court commissioner to effect the partition in the suit schedule land properties and the court commissioner filed reports along with wataptakta and hand sketch map.
12. The respondents have not file any objection.
13. On perusal of the records it reveals that the Respondent No.1 and 2 had filed the O.S.No 62/2011 against the defendants seeking partition and separate possession in the suit schedule properties and this court decreed the suit of the plaintiffs. There is no dispute about the relationship between the plaintiff and defendants in the said suit. Defendants No.2,8 to 11 are the sisters of the late Dastirsab and Lalsab / defendant No. 1. In this suit,

it is held that the brothers of the petitioner are entitled to $\frac{2}{9}$ share each in the suit schedule property. Therefore, the plaintiffs/defendants No. 2,8 to 11 being the sisters of the said deceased Dastirsab and defendant No.1, are entitled to $\frac{1}{9}$ share each in the suit property.

14. The Taluka surveyor Sindagi appointed as court commissioner to make the division in the land properties and he submitted the report along with wataptakta and hand-sketch map and neither the petitioner nor the respondents objected. Therefore, report submitted by the court commissioner is remained unchallenged by the parties. Petitioner submitted no objection for the court commissioner's report. After passing the judgment and decree in the partition suit, to get the fruits of the properties, court may pass the final decree after considering the records as well as report filed by the court commissioner. Therefore the report submitted by the court commissioner along with wataptakta and hand-sketch map are hereby accepted. Therefore, I answer point No.1 in the **Affirmative**.
15. **Point No.2:** In view of the above discussion, I proceed to pass the following:

ORDER

The petition filed U/o 20 Rule 18 R/w.54 of CPC is hereby allowed.

The allotment of shares in respect of landed properties is hereby made in favour of the petitioners as mentioned in the commissioner report in wataptakta, and annexed hand-sketch map.

Draw final decree on submission of non judicial stamp.

The report of the court commissioner in respect of landed properties along with wataptakta and hand-sketch map shall be part and parcel of the final decree.

No order as to costs.

(Dictated to the stenographer directly on computer then corrected, signed and Judgment pronounced in the open court on this the 1st - February- 2025)

(Nagesh K. Moger)
Prl Senior Civil Judge & JMFC,
Sindagi.

Annexure**List of witness examined for the petitioners:**

--- NIL ---

List of documents exhibited for the petitioners:

--- NIL ---

List of witness examined for the respondents:

--- NIL ----

List of documents exhibited for the respondents:

--- NIL ---

Prl Sr. Civil Judge & JMFC