

Order passed below Ex.1 in D.F.Appln.No.8/2011

This is an application for drawing up of a final decree.

2. The Executing Court has to resort to section 54 of the Code of Civil Procedure as far as the execution of the decree pertains to the immovable property, which relates to an estate assessed to the payment of revenue to the Government. Therefore, it is hereby directed that the partition of properties **(A)** house property bearing C.S.Extn. No.2302 admeasuring 99.2 sq.mtrs. situated at Sangli within the limits of Sangli, Miraj & Kupwad City Municipal Corporation and **(B)** agricultural lands bearing Gat No. 1363 admeasuring 0.62 R, Gat No.1144 admeasuring 0.02 R, Gat No.1145 admeasuring 0.49 R and Gat No.1155 admeasuring 0.28 R situated at Mouje Budhgaon, Tal. Miraj, Dist. Sangli be made by the Collector, Sangli in accordance with the declaration in the decree of the share of the parties to the suit.

3. In view of general directions of the Hon'ble High Court to all Civil Court given the decision of in **Annasaheb Rajaram V/S Rajaram Maruti 2001(3) MHLJ 53** the relevant papers for partition of the property are required to be remitted to the Collector, Sangli in pursuance of legislative mandate envisaged in Section 54 of the Code of Civil Procedure. The Collector Sangli to comply with the order as early as possible, at any rate within six months from the date receipt of papers and order.

4. Furthermore on perusal of the decree and judgement of the Special Civil Suit No.207/2009, it is deemed requisite for the purpose of execution of the decree in respect of the partition of the properties mentioned in detail as above, that commission should be issued to make the partition of it according to the rights declared in the decree of this court dated-29-4-2011 in Special Civil Suit No.

207/2009.

5. Ld. Advocate Shri D.S. Hegade, is hereby appointed as a Commissioner for the said purpose and is directed to make such inquiry as may necessary, to divide the said properties according to the best of his skill and judgment in the shares set- out in the said decree and to allot such shares to the said parties.

6. The commissioner is further authorized to award sums to be paid to any part by another party for the purpose of equalizing the values of the shares.

7. The decree -holder is directed to deposit sum of Rs. 1000/- in the Court, towards the expenses of the Commission. The said amount shall be paid to the commissioner after completion of the commission issued.

In the result the following order is made:-

ORDER

- i) The prayer for appointment of Commissioner for making partition of the house property is allowed.
- ii) The Commissioner is directed to make such inquiry as may necessary, to divide the said properties according to the best of his skill and judgment in the shares set- out in the said decree and to allot such shares to the several parties to the original suit.
- iii) The commissioner is further authorized to award sums to be paid to any party by another party for the purpose of equalizing the values of the shares.

- iv) The decree -holder is directed to deposit sum of Rs.1,000/- in the Court, towards the expenses of the Commission. The said amount shall be paid to the commissioner after completion of the commission issued.
- v) The Commissioner is at liberty to take assistance of Government valuer -Civil Engineer for ascertaining valuation of the house property for the purpose of equalizing the values of the shares, if required, the fees of whom shall be borne by the D.H.
- vi) The relevant papers for partition of the immovable property assessed to land revenue be remitted to the Collector, Sangli in pursuance of legislative mandate envisaged in Section 54 of the Code of Civil Procedure. The Collector Sangli to comply with the order as early as possible, at any rate within six months from the date receipt of papers and order.
- vii) Issue commission writ accordingly.

Sangli.
Date:19/06/2013.

Sd/- xxx
(D.S. Ghumare)
Civil Judge (Sr.Dn.), Sangli.