

IN THE COURT OF THE MUNSIFF OF HOSDRUG

Present: Smt. Aiswarya Ravikumar, Civil Judge (Junior Division), Hosdurg

Saturday, the 27th day of September, 2025/ 5th Aswina, 1947

FDIA No.14/2022 IN ORIGINAL SUIT No. 90 OF 2017

Between:-

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| <ol style="list-style-type: none"> 1. Parameshwara Alanthatta Khajanayar, aged 74 years, S/o.Narayana Khajanayar. 2. Narayanan.K, aged 51 years, S/o. Parameshwar Alanthatta Khajanayar, 3. K.Lakshmi Antharjanam, aged 65 years, Wife of Parameshwar Alanthatta Khajanayar. <p>All are R/at.Krishnatheeram, Mangad Kettinullil, Post- Bare, Udma, Udma Village, Hosdurg Taluk, Kasaragod District.</p> | } | <p>Applicants/
Plaintiffs</p> |
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And

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| <ol style="list-style-type: none"> 1. Sreedharan Alanthatta Khajanayar, aged 69 years, S/o. Late Narayana Khajanaya, R/at Alanthatta Kasha Illom, Muzhakoth, Klayikode Village, Hosdurg Taluk, Kasaragod District, Post : Valiyapoyil. 2. Narayana Alanthatta Khajanayar, (dead) 3. Trivikrama Alantharra Khajanaya, aged 58 years, S/o. Late Narayana Khajanayar, R/at Chootuvam, Pudukkai, Pudukkai Village, Hosdurg Taluk, Kasaragod District, P.O. Pudukkai. 4. Bhavani, aged 64 years, W/o. Trivikraman Okundayar, R/at Okuda Illom, Madhurankai, Post : Uppilikkai, Pudukkai Village, Hosdurg Taluk, Kasaragod District. | } | <p>Respondents/
Defendants</p> |
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Supplemental Respondents.

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| <ol style="list-style-type: none"> 5. Girija Narayanan.K, aged 55 years, W/o.Narayana Alanthatta Khajanayar , 6. Sreeharikumar Khajanayar, aged 20 years, S/o.Narayana Alanthatta Khajanayar, <p>Both are R/at.Chootuvam, Pudukkai, Pudukkai Village, Hosdurg Taluk, Kasaragod District, P.O. Pudukkai.</p> | } | |
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(Impleaded and amended as per order in IA.2/2023 and 3/2023 dated 06.02.2024.)

Application under Order 20 Rule 18, Order 26 Rule 13 and Section 151 of C.P.C to pass a final decree in terms of the decree/compromise decree dated 15/10/2022 passed in A.S.No.08/2021 on the file of Sub Court, Hosdurg and for the said purpose issue an Advocate Commission and grant such other and further reliefs as may be prayed for.

This Application presented on : 21.12.2022

Court fee paid : ₹ 5.00

This application coming on the 12th day of September, 2025 for final hearing before me in the presence of Sri. N.Rajamohanam, Advocate for Petitioners; of P.Narayanan, Advocate for 1st respondent; of Sri.A.Radhakrishnan, Advocate for 4th Respondent. Sri.P.Padmanabhan, Advocate for Supplemental 5th and 6th respondents; 3rd respondent being called absent set exparte; 2nd respondent reported dead, and having stood over to this day for consideration, the court passed the following :

ORDER

This petition is filed by the plaintiff in OS.No.90/2017 under Order 20 Rule 18, Order 26, Rule 13 and Section 151 of the Code of Civil Procedure, 1908, for passing final decree, on the basis of the preliminary decree passed in AS.08/2021.

2. AS.No.08/2021 was decreed on 15.10.2022 by Hon'ble Sub Court, Hosdurg passing a preliminary decree as per the terms of mediation entered between the parties as per the agreement between them.

3. As per the preliminary decree the plaint schedule property except the property given for panchayat road is to be divided into 110 shares and third respondent shall be entitled to 17 out of 110 shares and 4th respondent has to be allotted 7 out of 110 shares. The preliminary decree was further to the tune that the balance property shall be divided into 13 equal shares and 6 out of 13 shares shall be allotted to plaintiffs 1 to 3 jointly and 4 out of 13 shares shall be allotted to first defendant and 3 out of 13 shares shall be allotted to the second defendant.

4. Notice was ordered to respondents and they entered appearance. Advocate K.E.Rajeevan was appointed as the Advocate Commissioner to

prepare a plan and report in accordance to the preliminary decree passed by the court. Supplemental respondents R5 and R6 are the legal heirs of original respondent No.2. They had filed counter to the final decree application citing that the value of improvements has not been incorporated in the preliminary decree and hence the same is not enforceable. It is seen that original respondent No.2 has signed the mediation agreement which was made part of decree in AS.08/2021 fully knowing that the value of improvements were not considered at the time of preparation of agreement in the mediation to which he was a party nor at the stage of preliminary decree. Hence such objection is untenable.

5. Advocate commissioner filed commission report on 29.03.2023. Thereafter, IA.1/23 was filed by the respondent No.1 praying to remit back the report of the commissioner. It was averred that as per the mediation agreement, it was agreed between the parties to sell all the trees situated in the petition scheduled property and to divide the amount obtained by selling the trees to be divided in accordance with the settlement. The further averment was that equalisation of shares is not correct. Respondent No.1 further averred that the commissioner should have allotted the property to all of the parties touching the southern boundary road. So, there is no need to provide road through the western boundary of the suit properties. Hence according to the first defendant/applicant/first respondent, the report of the commissioner had to be remitted back on these points. The court as per order in IA.01/2023 observed that the commissioner by providing road in the western boundary in the north-south direction has ensured that there is road access to all the plots and had done so in view of the practical difficulty to provide plots abutting the southern road to all parties. The court further found that since the preliminary decree does not talk about an agreement between the parties to cut valuable trees in the property and to divide the same between the parties therein, the commissioner cannot be expected to incorporate the same in his report and that the report cannot be remitted back on such aspect. It was also observed that except an averment that

the calculation of equalisation of shares is wrong, nothing has been brought out to show that the calculation is erroneous. Hence, the court dismissed IA.01/2023 and accepted the report of the commissioner.

6. The Commissioner has identified and measured property in the final decree application and has found that upon measurement leaving the land for panchayat road an extent of 3.7 acres and 427 sq. links is the extent of the decree scheduled property. The commissioner has left a way from south to north through the western boundary of the property and the extent of the same has been recorded as 5.063 cents. Hence, after leaving the same the total extent available for partition was noted to be 3.69 Acres and 364 sq. links.

7. The commissioner has prepared A schedule showing allotment of the properties to the parties, B schedule showing value of the land and improvements and C schedule showing equalisation of shares.

8. Commissioner has allotted property having an extent of 23.490 cents (Plot 143/3B) to the share of 4th respondent, Plot 143/3C having an extent of 57.082 cents to the share of 3rd respondent. Plot 143/3D and Plot 143/3G having an extent of 88.870 cents in total to the share of 1st respondent and Plot 143/3E having an extent of 66.641 cents to the share of 2nd respondent, Plot 143/3F having an extent of 1 Acre 33.281 cents to the share of petitioners jointly and plot 143/3A having an extent of 5.63 cents for way. Commissioner has found that by equalising the value of shares petitioners, first respondent and 2nd respondent are bound to pay ₹3,16,276/-, ₹11,067/- and ₹1,58,139/- respectively to the 3rd respondent and first respondent is bound to pay ₹1,99,782/- to the 4th respondent towards equalisation of shares.

9. Heard perused the commission report and the attached schedules.

10. In the said circumstances commission report and plan along with the schedule showing allotment of shares to parties are accepted and are marked as Exts. C1 to C6. In consideration of Exts.C1 to C6, a final decree is passed as follows:

1. Plot 143/3B as shown in Schedule A shall be allotted to the share of 4th respondent.
2. Plot 143/3C as shown in Schedule A shall be allotted to the share of 3rd respondent.
3. Plot 143/3D and Plot 143/3G as shown in Schedule A shall be allotted to the share of 1st respondent.
4. Plot 143/3E as shown in Schedule A shall be allotted to the share of 2nd respondent.
5. Plot 143/3F as shown in Schedule A shall be allotted to the share of petitioners jointly.
6. Plot 143/3A as shown in Schedule A shall be allotted for way.
7. First respondent and 2nd respondent are bound to pay ₹3,16,276/-, ₹11,067/- and ₹1,58,139/- respectively to the 3rd respondent and first respondent is bound to pay ₹1,99,782/- to the 4th respondent towards equalisation of shares.
8. The allotment of shares shall be in accordance to schedule A showing allotment of properties attached to Ext. C1 commission report and Ext.C2 plan.
9. The cost of final decree proceedings including the value of non judicial stamp paper shall be borne by the parties in proportion to their respective shares over the property.
10. Ext.C1 to C6 shall form part of the final decree.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open Court, this the 27th day of September, 2025.

CIVIL JUDGE(JUNIOR DIVISION)

svp/-

Typed by : Radha.A
Compared by : Mallika.P

Fair of Order in
FDIA 14/2022 in O.S. 90/2017

Dated: 27.09.2025.