

ORDER

The instant petition has been filed by the petitioner seeking to draw final decree with respect to the suit property by metes and bounds on the strength of Judgement and Decree dated 17-12-2022 in O.S. No.158/21

2. In response to the notice, the respondents appeared through their Counsel, but did not file any statement of objections to the main petition.

3. Heard the learned Counsel for the Petitioners.

4. On perusal of the records of the case, the following points would emerge for my consideration:

1. Whether the final decree is to be drawn in terms of judgement and decree dated: 17-12-2022 in O.S. No. 158/21?

2. To what order?

5. My findings on the above points are as under:

Point No.1 : In the Affirmative

Point No.2 : As per final order

for the following:

REASONS

6. Point No.1: In the Petition, it is stated by the Petitioner that, they had instituted a suit bearing O.S. No.158/21 seeking for the partition and separate possession in all the suit schedule properties. After due enquiry, this Court, by a Judgement and Decree dated: 17-12-2022 and awarded 1/5th share in favour of the petitioner in the all suit schedule properties. Despite the said Judgement and Decree, the respondents have failed to effect the partition and separate possession and failed to hand over the possession in favour of the petitioners.

7. In pursuance of the direction issued by this court as per Section 54 of C.P.C., the Court Commissioners who are none other than the Taluk Surveyor, Kaduru has done the commission work. The Court Commissioners, after complying due formalities, have prepared the sketch wherein he has demarcated the share of the suit schedule petitioner item No.1 and 3 and item No.2 and 4 are concern the petitioner and respondents agreed to left the said properties for demarcation and also signed in the mahazar prepared by the court commissioner. Even

neither petitioner nor respondents denied the same.
Hence, objection on commissioner report nil.

8. On perusal of the report and hand-sketch map produced by the Court Commissioner with respect suit schedule properties item No. 1 and 3. I hold that the petitioner is are entitled 1/5th share in the suit schedule properties item No.1 and 3 as per the commissioner report. There is no reason to disbelieve the contents contained in commissioner's report and the same is to be accepted. There is no prohibition or stay order to proceed with the case. Accordingly, **I answer Point No.1 in the Affirmative.**

9. Point No.2: In view of my discussion made supra, I proceed to pass the following:

ORDER

The commissioner's report is
accepted.

Draw final decree accordingly.

-sd-
(Nalina S.C.)
Prl. Civil Judge & JMFC.,
Kaduru.