

IN THE COURT OF THE CIVIL JUDGE AT MUNDARGI

Present : - Mahajan R.A.,
B.A. LL.B., Spl.
Civil Judge and JMFC,
Mundargi.

DATED THIS THE 21ST DAY OF OCTOBER, 2019

FDP. No.01/2018

PETITIONER : Tahirabegum W/o. Babusab Naragund,
Age: 45 years, Occ: Agriculture,
R/o. Mahbusubani nagar,
Tq: Mundargi, Dist: Gadag.

(By Sri. MAB. Advocate)

// V/s. //

RESPONDENTS:

1. Smt. Meharunbi W/o. Fakrusab Belagatti,
Age: 66 years, Occ: Nil.
R/o. Mahbusubani nagar,
Tq: Mundargi, Dist: Gadag.
2. Ramzansab S/o. Fakrusab Belagatti,
Age: 47 years, Occ: Agriculture,
R/o. Kadlipet Oni,
Tq: Mundargi, Dist: Gadag.


21/10

3. Doddesh S/o. Basappa Sajjanar,
Age: 43 years, Occ: Agriculture,
R/o. Main Bazar, Near Dr.Basavaraj Meti
Hospital, Tq: Mundargi, Dist: Gadag.

(R1 -by Sri. ASW. Adv.)

(R2 to 3 -by Sri.VDA. Adv.)

ORDER

This is a petition filed under **Order 20 Rule 18 of C.P.C.**

2. The petitioner is the plaintiff in O.S.No.43/2011. The petitioner filed this petition and sought for Final Decree in terms of Preliminary Decree passed in O.S.No.43/2011 dated 25.03.2014.

3. After service of notice, respondents No.1 to 3 have appeared personally. They have not engaged their counsel. The respondents have not filed their objections to the


22/10

main petition. Accordingly, Sri. R.R.G Advocate came to be appointed as Court Commissioner with the assistance of Taluk Surveyor to effect division in the suit property as per the terms of Preliminary Decree. The Court Commissioner has effected division and submitted report. The plaintiff/petitioner has not filed objections to the Commission Report. The respondents have also not contested the petition and the Report of the Commission.

4. Heard learned counsels for petitioner and respondent No.3 to 6.

5. Points that would arise for my consideration as under;

1. Whether the Commission Report is acceptable?
2. What order?

10
2/16

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

Point No.1 : In the Affirmative.

Point No.2 : As per the final order for
the following;

REASONS

7. **POINT NO.1 :** This is a petition seeking Final Decree in terms of Preliminary Decree passed in O.S.No.43/2011. Considering the finality of the preliminary decree, the Court Commissioner came to be appointed for effecting division in terms of Preliminary Decree. The Court Commissioner has filed his Commission Report along with Sketch demarcating the share of the petitioner/plaintiff and respondents in the suit property. The commission Report submitted by the Court Commissioner remained un-objected.



8. In this background, on perusal of the Report of the Court Commissioner and the Sketch annexed thereto, it would reveal that, the Court Commissioner has effected division of suit property bearing Sy.No.47/1A measuring 2-Acres 3-Guntas 8-Annas and Sy.No.280/1 measuring 4 acres into 3 separate blocks. The Court Commissioner has allotted Block No.I in favour of plaintiff/petitioner, Block No.II in favour of defendant/respondent No.1, Block No.III in favour of defendant/respondent No.3 in respect of Sy.No.47/1A. The Court Commissioner has allotted Block No.I in favour of plaintiff/petitioner, Block No.II in favour of defendant/respondent No.1, Block No.III in favour of defendant/respondent No.2 in respect of Sy.No.280/1.



2/1/10

9. The Court Commissioner was not expected to allot the Blocks in favour of the plaintiff/petitioner and defendants/respondents. However, the parties have not objected for the said allocation. Further, the demarcation and allotment of blocks appears to be equitable. Accordingly, I do not find any hindrance in accepting Report as well as the Sketch annexed with the Commission Report filed by the Court Commissioner. There is no any illegality in the Report of the Court Commissioner. Accordingly, the Report of the Court Commissioner is accepted. Accordingly, **I answer point No.1 in the Affirmative.**

10. **POINT No.2 :** In view of my observation above, I proceed to pass the following;



2/1/18

ORDER

The petition filed by the petitioner under **Order 20 Rule 18 of C.P.C** is allowed.

The Report of the Court Commissioner is accepted.

The plaintiff/petitioner is allotted with Block No.I of Sy.No.47/1A and Sy.No.280/1 as shown in the hand Sketch of Commissioner Report.

The defendant/respondent No.1 is allotted with Block No.II of Sy.No.47/1A and Sy.No.280/1 as shown in the hand Sketch of Commissioner Report.

The defendant/respondent No.2 is allotted with Block No.III of



Sy.No.280/1 as shown in the hand
Sketch of Commissioner Report.

The defendant/respondent No.3 is
allotted with Block No.III of
Sy.No.47/1A as shown in the hand
Sketch of Commissioner Report.

The Commissioner Report and the
Sketch annexed thereto shall form part
and parcel of Final Decree.

Office to draw Final Decree, after
furnishing non-Judicial Stamp-papers
by the parties.

*[Dictated to the Stenographer directly on computer and corrected by me and then pronounced
in the Open Court this the 21st day of October, 2019.]*


(MAHAJAN R.A.)
CIVIL JUDGE & JMFC.
MUNDARGI.