

**IN THE COURT OF THE II - ADDL. CIVIL JUDGE & J.M.F.C.,
AT KOLAR**

: PRESENT:

Smt. KRUPAA C.L., B.Sc. L.L.M.,
II-Addl. Civil Judge & JMFC.,
Kolar.

Dated this the 20th day of February, 2019.

O.S. No.468/2015

Plaintiff/s : Sri. Chikka Konappa & Ors.
*(Represented by Sri. **S.D.C.**, Advocate)*

-Vs.-

Defendant/s : Smt. Jayamma & Anr.
*(Represented. by Sri. **T.V.R.**, Advocate)*

IN I.A.No.VIII

Applicant/s : Sri. C. Muniraju
(Prop. Plaintiff-1)

-Vs.-

Opponent/s : Smt. Jayamma & Anr.

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ORDERS ON I.A.No.8 FILED BY THE APPLICANTS
u/O 1 Rule 10 r/w Sec.151 of CPC.

The applicants have filed this I.A.No.VIII U/o 1 Rule 10 r/w Sec.151 of CPC., with a prayer to permit them to come on record as plaintiff Nos.3 and 4 to contest the case of plaintiffs.

2. In the duly sworn affidavit annexed to said application, applicant No.1 has stated that plaintiffs have filed the above suit against the defendants for the relief of partition and separate possession. Plaintiff No.1 is father and plaintiff No.2 is elder brother of applicants and they are joint family members. After the death of 1st plaintiff on 30.03.2017, 2nd plaintiff did not implead the applicants in this suit only with an intention to knock off their legitimate share in the suit schedule property. Since they are children of 1st plaintiff, they are necessary and proper parties to the suit to adjudicate the matter effectively. If the application is not allowed, applicants will be put to hardship and injury.

3. Neither plaintiffs nor defendants have filed their objection to the said application.

4. Heard.

5. The following points arise for the determination of this Court;

1) Whether the applicants have made out grounds to allow the application?

2) What Order?

6. The findings of this Court on the above points are;

Point No.1 : In the **AFFIRMATIVE**

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

REASONS

Point No.1 :

7. This is a suit filed by the plaintiffs against the defendants for the relief of partition and separate possession in respect of the suit schedule property. In the duly sworn affidavit annexed to the said application, applicants have stated that, deceased 1st plaintiff Sri. Chikka Konappa is father of applicants and 2nd plaintiff is their elder brother. After the death of Chikka Konappa, 2nd plaintiff did not bother to bring the applicants on record as legal representatives of Sri. Chikka Konappa. Since they are the legal representatives of Sri. Chikka Konappa, they became necessary parties to the suit. The said application has not been resisted either by 2nd plaintiff or by defendants.

8. Under **Order I Rule 10 of CPC**, whose presence before the court is necessary to enable the Court to adjudicate the matter completely and to settle the questions involved in the suit, can be added.

9. From the duly sworn affidavit annexed to the application, applicants have stated that, they are the legal representatives of 1st plaintiff. Since the said fact has not been disputed either by 2nd plaintiff or by defendants, it appears that applicants are legal representatives of Sri. Chikka Konappa. Since they are the legal representatives of Sri. Chikka Konappa and this is a suit for the relief of partition and separate possession, it is clear that, applicants are necessary parties whose presence is required to adjudicate the matter completely.

Hence, by considering the facts and circumstances and also to avoid the multiplicity of the proceedings, I opined to answer point No.1 in the **AFFIRMATIVE**.

Point No. 2:

10. For the forgoing reasons, this Court proceed to pass the following;

O R D E R

I.A.No.VIII U/o 1 Rule 10 r/w Sec.151 of CPC., filed by the applicants is hereby allowed.

Applicants are permitted to come on record as plaintiff Nos.3 and 4 to contest the case of plaintiffs.

*(Dictated to the Stenographer, transcribed and computerized by him, revised, corrected and then pronounced by me in the open Court on this the **20th day of February, 2019**)*

(KRUPAA C.L.)

II-Addl. Civil Judge & JMFC.,
Kolar.