

**ORDERS ON IA NO.7 FILED U/O 1 Rule 10(2) of
CPC.**

1	Nature of I.A.	I.A filed U/O 1 Rule 10(2) of CPC
2	IA filed on	23-02-2024
3	Objection filed on	16-11-2024
4	I.A. disposed on	03-07-2025

IA.No.7 is filed by applicant under Order 1 Rule 10(2) of CPC to permit them to come on record as additional defendants No.8 to 14.

2. As per the applicants stated that, the plaintiff has filed the suit seeking for the relief of declaration and injunction against the defendants No.1 to 7 initially and subsequently the defendant No.7 has been deleted from the array of parties. The suit schedule property is the ancestral and joint family property. Further states that, there is already one suit is pending on the same subject matter in OS.No.2171/2023. The plaintiff has the tendency of creating agreement and selling the suit schedule property without having any justifiable cause or exclusive rights. If the accompanying application is not allowed, we will suffer untold hardship and injustice. Hence, prayed to allow the application.

3. The plaintiff has filed objection, stated that, the defendants are not maintainable either in the law or on the facts and circumstances of the case and the proposed defendants No.8 to 14 are not a necessary party to adjudicating the matter on merits. The proposed defendant No.8 to 14 are not the joint family members of the plaintiff in any angle. The above suit now posted for evidence cross of PW1 and issued also framed in the above suit now the stage is cross evidence of the plaintiff side, the plaintiff by caste schedule caste and schedule tribes (Bhovi) the proposed defendants are by Christian, without any relationship of the plaintiffs with an intention to give harassment to the plaintiffs filed this type of application. The suit property are still continued as revenue land the RTC stands in plaintiff and defendant No.3 by created documents, therefore the proposed defendants was no right to filed this application to this suit. The proposed defendants having the habit of filing frivolous applications to drag on the court proceedings and given harassment to the plaintiff,

the plaintiff is the absolute share holders of the suit property, the proposed defendants have no rights to file this application in the suit. Hence, prayed to dismiss the application.

4. The plaintiff has filed the suit for the relief of declaration and injunction: a) declare that none of the defendants has no authority of law to question the legality on the ground that there is no alienation from the plaintiff nor his grandfather to any of the defendants for which the question of violation of sale transaction does not arise. b) that the rectification deed executed by the defendant No.4 in favor of defendant No.5 is not binding on the plaintiff and c) to set aside the impugned orders of defendant No.1 dated 01-08-2013.

5. Admittedly, Order 1 Rule 10 which empowers the Court to add any person as party at any stage of the proceedings if the person whose presence before the court is necessary or proper for effective adjudication of the issue involved in the suit.

6. For the better appreciation the extracts of the Order 1 Rule 10 (2) is extracted as follows.

Order I Rule 10(2) of the Code of Civil Procedure, 1908, reads as below :

"10(2) Court may strike out or add parties. - The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added."

From the bare reading of the provision, it is manifest that sub-rule (2) of Rule 10 gives a wider discretion to the Court to meet every case or defect of a party and to proceed with a person who is either necessary party or a proper party whose presence in the Court is essential for effective determination of the issues involved in the suit.

7. From the settled law on Order I Rule 10 CPC, the following principles emerge for consideration.

(a) The Court has power to strike out or implead any party as plaintiff or as defendant, at any stage of the suit.

(b) The party must be a necessary or proper party to the suit. A necessary or proper party is one without whose presence, the issues in the suit cannot be effectively and completely decided.

(c) A party may have same interest in the issues in the suit but in the facts of the case he may not be necessary or proper party.

(d) A party may be a necessary witness but he may not be necessary or proper party.

8. The power of the Court to add parties under Order I Rule 10, C.P.C, came up for consideration before **Supreme Court in Razia Begum v. Anwar Begum, [1959] SCR 1111**. In that case it was pointed out that the Courts in India have not treated the matter of addition of parties as raising any question of the initial jurisdiction of the Court and that it is firmly established as a result of judicial decisions that in order that a person may be added as a party to a suit, he should have a direct interest in the subject-matter of the litigation whether it be the questions relating to movable or immovable property.

9. In a nut shell, the tests to be applied for determining the right of a party to implead another, in a pending suit or other proceeding, may be crystallized into the following categories:-

a) If without his presence no effective and complete adjudication could be made;

b) If his presence is necessary for a complete and effectual adjudication of the dispute though no relief is claimed against him;

- c) If there is a cause of action against him;*
- d) If the relief sought in the suit or other proceedings is likely to be made binding on him;*
- e) If the ultimate outcome of the proceedings is likely affect him adversely;*
- f) If his role is really that of a necessary witness but is sought to be camouflaged as a necessary party;*

10. Hence, from relying upon the principles above, it is clear that seeking impleadment in a pending proceeding before a Court cannot be claimed as a matter of right, however, that general rule is subject to the provisions of Order I Rule 10 of the Code. The question before the court is whether proposed defendants presence in this matter is necessary for the purpose of adjudicating this matter effectually and completely and so also to settle all the questions involved in the suit, is the question requires answer in this order.

11. The plaintiff has filed the suit claiming that the grandfather has not sold the property, which is granted to Muniyappa. The applicants have come before the court stating that the suit schedule properties are joint family properties, where, they have also filed partition suit in O.S.No.2171/2023 over the suit schedule property. The plaintiffs states that, the applicants are Christian by practice but he is from Bhovi community. However, the applicants are furnished photographs of the plaintiff attending the mass prayer at the Church. Mere, entering into any place is not restricted in the religious country like India.

12. The only question is whether the applicants are just and necessary parties or proper parties need to be consider. The applicants have filed suit on the very same property seeking partition. The plaintiff has come up with the present suit seeking the relief of declaration. The true facts will be displayed, only when

the interested parties are brought on record. If the applicants are brought on record no hardship will be caused to the plaintiff. Hence if the applicants are brought on record it helps the court to reach a fair conclusion and their presence is necessary, hence, they need to be arrayed as parties to avoid multiplicity. Moreover, mere adding will not dilute their duty in establishing their contention. Hence, with these observations I proceed to pass the following.

ORDER

IA No.7 filed under order 1 Rule 10(2) of CPC is allowed.

For amendment and amended plaint by 18-08-2025.

VII Addl. Senior Civil Judge & JMFC,
Bangalore Rural District, Bangalore.