

KABC010247392014



**IN THE COURT OF THE XV ADDITIONAL CITY CIVIL
AND SESSIONS JUDGE, BENGALURU (CCH - 3)**

DATED THIS THE 15TH DAY OF JULY 2026

: PRESENT :

SRI.SATHISHA.L.P., BA. LL.B.,
XCI Addl. City Civil & Sessions Judge
& Spl. Judge for KPIDFE Cases, Bengaluru.

C/C XV Addl. City Civil & Sessions Judge
Bengaluru.

O.S No: 8960/2014

PLAINTIFF	Smt. Rekha.B.A.
DEFENDANTS	Sri Anasuya and others
Case No.	O.S.No.8960/2014
I.A.No.	IA No.1
Provision under which application is filed	Under Order I Rule 10(2) r/w Sec. 151 of CPC

Party who filed application	Proposed Defendants 6 to 14
Stage when the application is filed	Further cross of PW1
Nature of suit	Partition Suit

ORDERS ON I.A.No.1

1. I.A. No. 1/2024 is filed by the applicants/proposed defendants No. 6 to 14 under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure, seeking to implead them as defendants No. 6 to 14 in the suit.

2. In support of the application, the affidavit of proposed defendant No. 7 is filed, contending that the proposed defendants No. 6 and 8 to 12 are his brothers and sisters, and proposed defendants No. 13 and 14 are the son and daughter of his deceased sister, Late Prabhavathi.

3. It is further contended that the suit is filed by the plaintiff for partition and separate possession, declaration that the sale deeds dated 05-12-1986 and 13-05-1994 are null and void and not binding on the plaintiff, for mesne profits and other consequential reliefs. The matter is now posted for the cross-examination of PW-1.

4. The proposed defendants are the children and grandchildren of Smt. Tholasamma and A.C. Narayana Shetty. Their mother and father died leaving behind their children, namely, Anasuya, Prabhavathi, Sunanda Shetty, himself, N. Prasad, N. Geetha, N. Seethalakshmi, N. Murthy, N. Usha Rani, N. Narayan Babu and N. Raju, as their legal heirs and successors. His sister Prabhavathi died on 27-10-2024, leaving behind her son B.S. Sunil and daughter Shashi Anand. However, his brothers, N. Prasad and N. Raju, are not interested in pursuing the suit and have not filed any application.

5. It is further contended that their grandfather, H. Narayana, during his lifetime, married Parvathamma as his first wife. After the death of Parvathamma, he married Late Muniyamma as his second wife. His mother was the only daughter born to Late Parvathamma and H. Narayana. Through his second wife, Muniyamma, H. Narayana had two children, namely, Ashwath Narayana and Jayamma.

6. The suit properties were originally acquired by his grandfather, H. Narayana, who died intestate. His grandmother, Parvathamma, predeceased H. Narayana. Therefore, H. Narayana left behind his second wife, Muniyamma, her children, and the children of

Parvathamma as his legal heirs and successors.

7. It is further submitted that the son of the second wife, namely Narayana, shared the properties among the other legal heirs of H. Narayana behind their back, thereby creating interest in the suit properties. The suit properties are joint family properties. After the death of his mother, they demanded their share in the properties. However, the plaintiff and defendants No. 1 to 3 postponed the partition by assigning one reason or another. The applicants are in joint possession of the schedule properties and have equal right, title and interest in the suit properties. The plaintiff and defendants No. 1 to 3 have intentionally not made them parties to the suit in order to defeat their lawful rights in the properties. They have attempted to create third-party interest in the suit schedule properties with a mala fide intention to usurp the entire properties, and such transactions are not binding on the applicants.

8. Schedule 'A' property was originally acquired by his grandfather, H. Narayana, who died intestate. The applicants also succeeded to the properties left behind by H. Narayana as his legal heirs. Even though they have right, title and interest over the properties, defendants No. 1 to 3, without their knowledge, executed sale deeds dated 16-02-1995, registered as Document No. 12122 and

12123. The said facts came to their knowledge only recently. After coming to know about the said transactions, they applied for certified copies of the documents and thereafter came to know about the sale transactions.

9. It is further contended that the applicants, the plaintiffs and defendants No. 1 to 3 constitute a Hindu Undivided Family and are in joint possession of Schedule 'A' and 'B' properties. They are also entitled to a legitimate share in the schedule properties. There has been no partition in the family. They are demanding equitable partition and allotment of their lawful share in the schedule properties.

10. The plaintiffs have filed the present suit for partition, separate possession and declaration without impleading the applicants as parties, with an intention to defeat their legal rights. In the circumstances, their presence is necessary, and they are proper and necessary parties to the suit. The proposed defendants No. 6 to 14 are necessary parties to enable the Court to effectively and completely adjudicate the suit, determine the real controversy between the parties, settle all the questions involved in the suit and avoid multiplicity of proceedings.

11. If the accompanying application is not allowed,

the applicants will be put to serious hardship and irreparable injury, which cannot be compensated in any manner. On the other hand, no prejudice will be caused to the other side if the application is allowed.

On these grounds, the applicants have prayed to allow the application.

12. The application has been opposed by the plaintiff by filing detailed objections. In the objection statement, it is contended that the application filed by the proposed defendants is wholly erroneous, not maintainable either in law or on facts, and is liable to be dismissed with exemplary costs. It is further contended that the application has been filed only with an intention to protract the proceedings at the instance of defendants No. 1 to 3.

13. It is further contended that the above suit is one for partition and separate possession of the suit schedule properties. After the filing of the suit, due to the intervention of well-wishers, family members and friends, the plaintiff settled the matter with defendants No. 4 and 5(a) in respect of the sale transactions and filed a compromise petition relating to Item Nos. 1 and 2 of Schedule 'A' property.

14. It is further contended that defendants No. 1 to 3

filed objections to the compromise petition contending that it was not permissible to enter into such a compromise and that if the Court comes to the conclusion that the properties are partible, the compromise may frustrate the entire suit for partition. Thus, they opposed the compromise entered into between the plaintiff on one hand and defendants No. 4 and 5(a) on the other.

15. It is further contended that defendants No. 1 to 3 also filed an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure seeking to restrain defendants No. 4 and 5(a) from alienating the suit property. Defendants No. 2 and 3, through their children, have also filed an application seeking to implead themselves in the present suit. Though defendants No. 1 to 3 had sold the property to defendants No. 4 and 5, they are now opposing the compromise entered into between the plaintiff and defendants No. 4 and 5(a). Such subsequent stand taken by defendants No. 1 to 3 is contrary to the written statement filed before the Court. In fact, the plaintiff has confirmed the sale deeds executed by defendants No. 1 to 3 in favour of defendants No. 4 and 5. The very same defendants are now opposing the compromise and have also filed an application seeking an injunction restraining alienation of the property.

16. It is further contended that the present application is yet another attempt to complicate the proceedings by introducing third parties who are totally unconnected with the suit schedule properties and have no manner of right over the same. Defendants No. 1 to 3 are the masterminds behind the filing of the present application without any supporting material. Therefore, the application filed by the proposed defendants is liable to be dismissed with exemplary costs.

17. In the further objections, the plaintiff has denied all the allegations and averments made in the application and has prayed to reject the same.

18. Heard the arguments from both sides and perused the records.

19. Now the following points arise for my consideration:

Point No.1:- Whether I.A. No. 1/2024 filed by the proposed defendants under Order I Rule 10(2) of the Code of Civil Procedure, seeking to implead themselves as defendants No. 6 to 14 in the present suit, deserves to

be allowed ?

Point No.2:- What order?

20. Having heard the arguments from both sides and after perusal of the records, my answers to the above points are as under:

Point No.1:- In the Negative

Point No.2:- As per the final order,

for the following :

REASONS

21. **POINT No. 1 :-** The present suit was filed by the plaintiff on 20-11-2014 seeking the relief of partition and separate possession of the suit schedule 'A' and 'B' properties, declaration that the Wills dated 05-12-1986 and 13-05-1994 are forged, mesne profits, costs, and such other reliefs.

22. In the present suit, I.A. No. 1/2024 is filed by the applicants seeking to come on record as defendants No. 6 to 14 on 26-06-2024.

23. In the plaint, the plaintiff has contended that she is the daughter of deceased Ashwathanarayana, defendant No. 1 is her mother, defendants No. 2 and 3 are the sons of deceased Ashwathanarayana, and that the suit schedule properties are the joint family properties. Hence, she has sought the aforesaid reliefs.

24. The proposed defendants have filed the present application after a lapse of almost nine years from the date of institution of the suit by contending that one H. Narayanappa had two wives by name Parvathamma and Muniyamma. They claim that they are the descendants of Parvathamma, whereas the plaintiff and defendants No. 1 to 3 are the descendants of the second wife, Muniyamma. According to them, the suit schedule properties originally belonged to H. Narayanappa, and therefore they are also entitled to a share in the suit schedule properties. On that basis, they seek to implead themselves as defendants No. 6 to 14.

25. It is to be noted that the proposed defendants have produced only a family tree in the form of an affidavit sworn before a Notary, which is not an authenticated family tree recognised under law. Apart from that, the present suit is one for partition and

separate possession of the plaintiff's alleged share. The cause of action pleaded by the plaintiff is entirely different from the cause of action now sought to be projected by the proposed defendants. The cause of action of the proposed defendants cannot be merged with that of the plaintiff.

26. If at all the proposed defendants claim a share in the suit schedule properties, they have to institute an independent suit by pleading their own cause of action and by establishing their relationship with the plaintiff and defendants No. 1 to 3. Further, the present application has been filed nearly nine years after the institution of the suit.

27. Even if the applicants are permitted to come on record as defendants, the nature of their claim and the cause of action are distinct and independent. Therefore, they have to agitate their alleged rights independently. No useful purpose would be served by impleading them in the present suit. Hence, the point under consideration is answered in the Negative.

28. POINT No. 2 :- In view of the above discussion, I proceed to pass the following :-

ORDER

I.A. No. 1/2024 filed by the proposed defendants under Order I Rule 10(2) of the Code of Civil Procedure seeking to implead themselves as defendants No. 6 to 14 is hereby dismissed.

However, it is made clear that the proposed defendants are at liberty to work out and prosecute their alleged rights independently by instituting appropriate proceedings based on their own cause of action, if so advised.

(Dictated to the Stenographer Grade-II online and typed by him, then corrected and pronounced by me in open court, on this day of 15th day of July 2026).

(SATHISHA L.P)
C/C XV Addl. City Civil & Sessions Judge,
Bengaluru.