

**ORDERS ON I.A.NO.2/25 FILED UNDER ORDER I RULE
10(2) OF C.P.C. FILED BY THE PLAINTIFFS**

I.A.No.2/25 is filed by the plaintiffs under Order I Rule 10(2) of CPC, praying to permit them to implead the proposed applicants Smt.Gayathri.M, Sri.N.Nagaraju and

Sri.A.Aswathanarayana as defendants No.17 to 19 as mentioned in I.A.

2. In support of the application, 2nd plaintiff has sworn to an affidavit stating that they have filed the suit for partition and separate possession of their half share in the suit schedule properties. 2nd plaintiff's father late Sri.K.S.Chikkalingappa, along with defendant No.1 had jointly purchased the suit schedule properties. The said lands were subsequently converted to non-agricultural use and a residential layout was formed with several sites. However, without informing his father, defendant No.1 illegally executed Sale Deeds in favour of the proposed defendants. His father had instituted a suit in O.S.No.7084/1997 against Sri.N.Narasimaiah and others, including the proposed defendants. In that suit, the proposed defendants contended that they were bona fide purchasers. They also stated that, should the plaintiff succeed in the said suit, their rights would only extend to the share of defendant No.1 in the suit schedule properties. accordingly, the proposed defendants are the necessary and proper parties to the present suit. if the application is not allowed, they would suffer irreparable loss and hardship. Therefore, prays to allow the application.

3. The defendants No.9 and 11 are filed their objections stating that the application will not survive either in

law or on facts. The averments made in the affidavit are denied by the defendants. The plaintiffs with an intention to drag the matter filed the present application after the lapse of 11 years. Though the plaintiff No.2 admitted, in her cross examination, stating that, the plaintiffs have filed a Writ Petition WP.No.56649-50/2013 (GM-Wakf) before the Hon'ble High Court of Karnataka at Bangalore against the Waqf board challenging the notification issued by the Waqf board as per Notification No. KBW/MSC/32/2009-2010 the said facts was suppressed and not been disclosed while filing the present suit before this Hon'ble court. The plaintiffs had failed to implead the waqf board as necessary party in the present suit as defendant, though the suit schedule properties are notified as Waqf properties till now the suit schedule Properties were under Waqf board. The plaintiffs knowing all the aforesaid fact by concealing the truth and realities approached this Hon'ble Court by filing this application with unclean hands by suppressing the material fact. The plaintiffs have failed to implead the subsequent purchasers, illegal trespassers of the suit schedule properties as parties to the present suit. No relief is sought against the proposed defendants. Hence, they are neither necessary parties nor proper parties. Hence, prays to dismiss the application.

4. The suit is filed by the plaintiffs for partition and separate possession of their half share in the suit schedule properties.

5. This Court has relied on the orders passed by Hon'ble High Court of Karnataka, Bengaluru in **Writ Petition No.14702/2024** – (Chikkananjaiah and another V/s. Gangama and others), wherein, it is held that *“purchaser of undivided interest in suit schedule property during pendency of suit for partition and separate possession between members of family is not 1 who should come at preliminary decree proceedings; He can always work out his remedies in final decree proceedings is settled principle of law;”*

Therefore in my humble opinion, the effect of **Sec.52 of the Transfer of Property Act** is as simple as this, whenever a person purchases any property or undivided share of one of the shares of a joint family during the pendency of the suit, then the purchaser will step into the shoes of his respective vendor and if his vendor gets any fruits under the decree by such purchaser. In the same manner if the vendor of such purchaser suffer any set back by the order of the Court concerned, then, such purchaser will have to suffer the set back or inconvenience. In that view of the matter. In my humble opinion, the proposed defendants No.8, 9 and 10 are not necessary parties to the question as involved in this suit. However, the orders of this Court binds over the purchasers in

the light of Sec.52 of the Transfer Property Act. **This Court also relied on above said orders of Hon'ble High Court of Karnataka, Bengaluru in W.P.No.14702/2024.**

6. The subsequent purchasers may be proper parties, but they are not the necessary parties. Again if any order passed against the defendants will be effected on the purchasers also. The said suit is of the year 2014 and presently, now it is set down for cross-examination of D.W.1 and 2. Therefore, with all these observations, **I answer this point in the Negative** and pass the following:-

ORDER

I.A.No.2/25 filed by the plaintiffs under Order I Rule 10(2) of CPC, is hereby rejected.

For Cross examination of D.W.1 and 2
by 11.02.2026.

(Nisharani A.C)
III ADDL. CITY CIVIL AND
SESSIONS JUDGE, BENGALURU.