

**IN THE COURT OF LXXXII ADDL.CITY CIVIL & SESSIONS  
JUDGE, AT BENGALURU (CCH. 83)**

**THIS THE 5<sup>TH</sup> DAY OF MARCH 2022.**

**PRESENT:**

**SRI. DEVARAJA BHAT. M., B. COM, LL. B.,  
LXXXII ADDL.CITY CIVIL & SESSIONS JUDGE,  
BENGALURU.**

**IA. NO. IV**

**BETWEEN:**

**M/s Gaurav Rose Real  
Estate Private Limited.**

**: APPLICANT**

**AND**

**1. M/s Green Park  
Hotels & Resorts  
Limited, having  
Registered Office at 4<sup>th</sup>  
Floor, Hotel Green Park,  
Green Lands, Begum  
Pet, Hyderabad - 500  
016, Telangana State,  
represted by its  
Director, Mr. B. Gautam.**

**2. M/s Oriental Hotels  
limited, having  
Registered Office at Taj  
Coromandel, 37,  
Mahatma Gandhi Road,  
Chennai - 600 034,  
represented by its  
Authorized Signatory,  
Mr. Sanjeev Kumar  
Gupta.**

**: OPPONENTS**

**IN****Com. O.S. No. 25855/2017****BETWEEN:****M/s Gaurav Rose Real  
Estate Private Limited.****: PLAINTIFF****AND****M/s Blue Horizon Hotels  
Private Limited and  
Others.****: DEFENDANTS****ORDERS ON IA NO. IV**

This is an application filed by the Plaintiff under Order I Rule 10 (2) of the Civil Procedure Code, to implead the Opponents as Defendant No.5 and 6 in this suit.

**2.** In the accompanying Affidavit, the Authorised representative of the Applicant has contended as follows:-

The Defendants have been executing documents in favour of third parties which is a clear violation of the terms and conditions of the Mortgage Deed dated 04.04.2014 executed by them in favour of the Plaintiff, that the Plaintiff has produced the Encumbrance Certificate which shows that the Defendants had alienated a portion of the suit property in favour of third parties, that the Defendants give effect to

the Agreement/Deeds in the Plaint in respect of the properties mentioned in the schedule to the Plaint, that it will create multiplicity of proceedings and the very purpose of filing this suit will become infructuous, that it is vital and necessary to implead the proposed Defendants in the instant suit as the Defendant No. 1 to 4 had illegally alienated the suit property in favour of the Proposed Defendant No.5 and hence he prays to allow the said application.

**3.** The 1<sup>st</sup> Defendant has filed his objections to the said I.A. on 27.09.2019 by denying the said allegations and prayed to dismiss the said I.A. The Proposed 5<sup>th</sup> Defendant has filed his detailed objections and prayed to dismiss the said application on 04.01.2020.

**4.** I heard the arguments of the Plaintiff on 26.10.2021. I heard the arguments of the Advocate for the Proposed Defendant No.5 on 22.02.2022.

**5.** Based on the contentions of both parties and arguments of both Advocates, I formulate the following Points for my consideration:-

- (1) Whether the proposed parties ought to have been joined as a party in this proceedings ?

- (2) If not, whether the presence of proposed parties before the Court is necessary in order to enable the Court, effectually and completely, to adjudicate upon and settle all the questions involved in this suit ?
- (3) What Order?

**6.** My findings are as follows:-

Point No. 1 : - In the **Affirmative.**

Point No. 2 : - In the **Affirmative.**

Point No. 3 : - As per my final orders for the following reasons.

**REASONS**

**7. Points No. 1 & 2:** - Since these two points are interlinked with each other, in order to avoid repetition of facts, I discuss the same jointly.

**8.** According to the Plaintiff, the Proposed Defendant No. 5 and 6 are the subsequent purchasers of the property in dispute, and that they purchased during pendency of suit, they may be impleaded as Defendant No.5 and 6. The 5<sup>th</sup> Defendant by relying on the Orders passed in this suit on I.A. No.I and II dated 28.04.2018, has contended that he cannot be impleaded in this suit.

9. However, the Prayer No. (a) of the Plaint discloses that the suit is for recovery of Mortgage Money as per the Registered Mortgage Deed dated 04.04.2014 executed by 1<sup>st</sup> Defendant in favour of the Plaintiff. There is also an allegation that the Defendant No.1 executed another Mortgage Deed in favour of Defendant No.2 and 3 as per Mortgage Deed Dated 28.05.2015 and the Plaintiff has contended that the said Mortgage Deed is not binding on him. When such being the case, being the subsequent purchasers of the Mortgaged Property, the Proposed Defendants are necessary and proper parties to the suit as per Order XXXIV Rule 1 of Civil Procedure Code. Reference may be made to a recent decision of Hon'ble Supreme Court reported in **2021 - S.C.C. Online - S.C. - 608 (Narayan Deorao Javle (Deceased) through Lrs vs. Krishna & Others) (Civil Appeal No. 4726/2021 (arising out of SLP (Civil) No. 13575/2015) decided on 17.08.2021)**. Therefore, I answer **Point No.1 & 2** in 'Affirmative'.

10. **Point No. 3** : - Therefore, I proceed to pass the following Order.

### **ORDER**

***The I.A. NO. IV filed under Order I Rule 10 (2) of the Civil Procedure Code filed by the Plaintiff is hereby allowed.***

***The Plaintiff is permitted to implead the Opponents as Defendants No. 5 and 6.***

***Consequential to the said impleadment, the Plaintiff is directed to file an amendment application as required under Rule 15 of the Karnataka Civil Rules of Practice.***

***The parties shall bear their respective costs.***

***For filing amendment application by 28.03.2022.***

(Dictated to the Stenographer, typed by her directly on the computer, transcribed by her, verified by me and pronounced in the open court on **5<sup>th</sup> day of March 2022**).

**(M. DEVARAJA BHAT)  
LXXXII Addl. City Civil & Sessions Judge,  
Bengaluru.**

**Com.O.S.No.25855/2017**

The Order on I.A.No.IV is pronounced in Open Court. The operative portion of the said Orders is as follows :-

**ORDER**

***The I.A. NO. IV filed under Order I Rule 10 (2) of the Civil Procedure Code filed by the Plaintiff is hereby allowed.***

***The Plaintiff is permitted to implead the Opponents as Defendants No. 5 and 6.***

***Consequential to the said impleadment, the Plaintiff is directed to file an amendment application as required under Rule 15 of the Karnataka Civil Rules of Practice.***

***The parties shall bear their respective costs.***

***For filing amendment application by 28.03.2022.***

(vide my separate detailed Order dated 05.03.2022).

(Typed to my dictation).

**LXXXII ACCJ, B'LURU.**