

KABG040001302021



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC,
AT : BELAGAVI.**

PRESENT : Smt. Preeti L. Malavalli, B.B.A.,LL.B (Hons.)
Prl. Civil Judge & JMFC,
Belagavi.

DATED THIS THE 21ST DAY OF APRIL-2025

ORIGINAL SUIT NO.101/2021

PLAINTIFFS :

1)	Smt. Mahadevi Shivangouda Patil, Age : 60 years, Occ : Household work, R/o : 42/2, Panchayat Galli, Marihal, Tal : & Dist : Belagavi.
2)	Smt. Geeta Ramangouda Patil, Age : 50 years, Occ : Household work, R/o : 42/2, Panchayat Galli, Marihal, Tal : & Dist : Belagavi.
3)	Shri. Sangangouda Basangouda Patil, Age : 42 years, Occ : Agriculture, R/o : 42/2, Panchayat Galli, Marihal, Tal : & Dist : Belagavi.

Vs.

DEFENDANTS :

1)	Shri. Jangalisab S/o. Mohammedhussain Mulla, Age : About 80 years, Occ : Agriculture, R/o : Maratha Galli, Marihal, Tal : & Dist : Belagavi, Since deceased R/by his L.Rs.
1A)	Smt. Jubeda W/o. Jangalisab Mulla, Age : 75 years, Occ : Household, R/o : Marihal Village, Tal : & Dist : Belagavi and others LR.s.
2)	Smt. Sairabanu Shanoor Peerzade, Age : 38 years, Occ : Household work, R/o : #353, Near Police Station, Makan Galli, M. K. Hubli, Tal : Bailhongal, Dist : Belagavi.

PARTIES TO I.A.NO.VII**Applicant/Proposed Defendant No.3 :**

1)	Shri. Krishna Bhairu Patil, Age : 65 years, Occ : Business, R/o : Main Road, Mutga Village, Belagavi.
	(By Shri. S. G. Biradar, Adv.)

Vs.**Opponents/Plaintiffs :**

1)	Smt. Mahadevi Shivangouda Patil & others.
	(By Shri. S. H. Yadawad, Adv.)

1.	Provision under which application is filed	U/O.I Rule 10 R/w. Sec. 151 of C.P.C.
2.	Relief sought for	Implead the proposed defendant
3.	The date on which the application is filed	14.12.2022
4.	Number of application	VII
5.	The date on which the objections are filed by different opponent	23.02.2023
6.	The date on which the orders were passed on the said application.	21.04.2025

**ORDER ON I.A.NO.VII FILED BY PROPOSED DEFENDANT
NO.3 U/O. I RULE 10 R/W. SEC.151 OF
CODE OF CIVIL PROCEDURE**

The proposed defendant No.3 has filed application U/O. I Rule 10 R/w. Sec.151 of Code Civil Procedure, to implead him as defendant No.3 in the suit.

2. In the affidavit annexed to the application, the proposed defendant No.3 has stated that defendant No.1 in the present suit is his vendor and the proposed defendant herein has purchased the agricultural property measuring 11 Guntas out of R.S.No.262 i.e., suit property from his vendor Shri. Jangalisab i.e., defendant No.1 in the present suit and that the said sale deed is duly

registered before Sub-Registrar, Belagavi on 26.11.2009. The proposed defendant has further stated that he is the lawful owner in possession of the aforesaid property since November 2009 and he has been cultivating the said property without anybody's disturbance and recently when he had been to Tahasildar Office to verify the records, he found that his name was not mutated as per the registered sale deed in the documents pertaining to his property and then he came to know about the present suit being filed by plaintiff and status-quo operating in the suit. It is further stated that the said status-quo order is operating against the proposed defendant also indirectly though he is not party to the suit. That as such he is necessary party to the suit. He has further stated that a suit for specific performance was filed by defendant No.1 against legal heirs of Shri. Basangouda Patil in O.S. No.709/1999 in respect of 20 Guntas of land in R.S.No.262 and the said suit came to be partly decreed by granting the relief of refund of advance sale consideration amount and thereafter appeal was preferred in R.A.No.214/2002 and it came to be allowed by directing the legal heirs of late Basangouda to execute sale deed in favour of vendor of proposed defendant and thereafter the legal heirs of Basangouda preferred R.S.A. No.1133/2007 before Hon'ble High Court of Karnataka and the said appeal came to be allowed by restoring the order of trial Court in O.S.No.709/1999 and then the vendor of proposed

defendant preferred revision petition before Hon'ble High Court of Karnataka and the same came to be allowed and the R.S.A. was ordered to be restored to file. But however, the plaintiffs herein did not proceed with the matter and hence the said R.S.A. No.1133/2007 came to be dismissed. That as such, the order passed by Hon'ble Senior Civil Judge, Belagavi in R.A. No.214/2002 has attained its finality. Such being the case, the vendor of proposed defendant has sold 11 Guntas of land in R.S. No.262 under registered sale deed in favour of proposed defendant and under such circumstance, any order passed in respect of property bearing R.S.No.262 which is subsequently renumbered as the present suit properties, will affect the rights of proposed defendant and hence the present application deserves to be allowed. On these grounds, the proposed defendant has prayed to allow the application.

3. Per contra, the plaintiffs have filed objection to the said application on the ground that the said application is misconceived and the averments made therein are false, baseless and filed with an intention of laying false claim over the absolute property of plaintiffs. The plaintiffs have further stated that the suit properties were originally under the ownership of late Basangouda Patil who expired on 08.02.1999 and in the month of September 1991 late Basangouda Patil had entered into agreement of sale with defendant No.1 in respect of 20 Guntas of

land out of R.S.No.262 for sale consideration amount of Rs.20,000/- and that after death of Basangouda Patil, his legal heirs i.e., husband of plaintiff No.1 and other legal heirs failed to execute registered sale deed. That the defendant No.1 filed O.S. No.709/1999 i.e., suit for specific performance of contract before this Court and the said suit came to be partly decreed and it was ordered for refund of advance sale consideration amount of Rs.20,000/-. Thereafter the plaintiffs deposited the advance sale consideration amount with interest thereon, but the defendant preferred regular appeal and the said appeal came to be allowed directing the L.Rs of Basangouda Patil to execute sale deed in favour of defendant No.1. The plaintiffs then preferred regular second appeal before Hon'ble High Court of Karnataka and the same came to be allowed. That despite knowledge of the said proceedings, by suppressing the true facts, during pendency of the R.S.A. preferred by plaintiffs, the defendant No.1 filed E.P. No.246/2007 and without proper notice to plaintiffs, got executed sale deed on 23.06.2008 through Court commissioner and got entered his name in the record of rights and the defendant No.1 also sold 11 Guntas of land out of 20 Guntas in R.S.No.262 which was again sub-divided as R.S.No.262/4 and R.S.No.262/5 and the said 11 Guntas of land in R.S.No.262/5 was sold to the proposed defendant herein. That after orders in R.S.A. No.1133/2007, the plaintiffs filed E.P.No.1293/2012 against

defendant No.1 and the proposed defendant herein and in the said E.P. it was ordered that the sale deeds executed in favour of defendant No.1 and proposed defendant herein stand canceled or revoked and as such the defendant No.1 and proposed defendant herein were ordered to handover the possession of said properties to the plaintiffs and accordingly the plaintiffs filed declaration before Sub-Registrar, Belagavi and the same was registered on 30.08.2013 and accordingly the names of legal heirs of Basangouda Patil came to be mutated in the record of rights of suit properties on 30.04.2014. Such being the case, the sale deed standing in the name of proposed defendant is already revoked by the order of this Court dated 25.07.2013 in E.P. No.1293/2012. Under such circumstances, the question of impleading the proposed defendant does not arise and hence the application deserves to be dismissed as the proposed defendant is neither necessary party nor proper party. On these grounds, the plaintiffs have prayed to dismiss the present application.

4. Heard the counsel for proposed defendant and plaintiffs. Perused the application, objection and documents on record.

5. The following points arise for my consideration :

- 1) *Whether the applicant/proposed defendant No.3 has made out grounds to allow the application?*
- 2) *What order?*

6. My answer to above points are as under :

Point No.1 : In the Affirmative.

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

REASONS

7. **Point No.1 :** The proposed defendant has filed the present application seeking to implead him as defendant No.3 in the suit on the ground that he is purchaser of portion of suit property to the extent of 11 Guntas from defendant No.1 under registered sale deed dated 26.11.2009. The proposed defendant has also produced the copy of said sale deed and RTC Extract pertaining to said property which shows that 11 Guntas of land in R.S. No.262/4 is standing in the name of proposed defendant. The proposed defendant has also relied on the order passed by the Hon'ble High Court of Karnataka in Review Petition No.1589/2012 in R.S.A.No.1133/2007 wherein the said R.S.A. was recalled and restored to file. It is pertinent to note that after restoration of said R.S.A., due to non-appearance of appellants therein, the said appeal came to be dismissed. As such, it is now the contention of proposed defendant that the Order and Judgment of Hon'ble I Addl. Senior Civil Judge, Belagavi in R.A. No.214/2002 has attained finality and the sale deed with respect to suit property which is executed in favour of defendant No.1 is valid and based on the said sale deed, the defendant No.1 has

sold 11 Guntas of land in favour of proposed defendant. As such, the proposed defendant has got interest over the subject matter of the present suit since his name is appearing in the RTC extract pertaining to the portion of suit property and as such his presence is required before the Court to adjudicate the matter completely and effectively.

8. The contention of the plaintiffs that the present suit being a suit for declaration of sale deed executed by defendant No.1 in favour of defendant No.2 as null and void, the presence of defendant No.3 is not required before the Court and that defendant No.3 is laying false claim over the property of the plaintiffs, are the matters to be adjudicated during the course of trial. The plaintiffs have also contended that the said sale deed executed in favour of defendant No.1 and the proposed defendant are already canceled by filing declaration before Sub-Registrar. But however, in view of dismissal of regular second appeal as aforesaid by the Hon'ble High Court of Karnataka, the said contention of plaintiffs will have to be determined during the course of trial and not at this stage. As such, this Court deems it necessary to allow the proposed defendant to come on record and put forth his case in respect of suit schedule property since he is also shown to be having substantial interest over the portion of suit schedule property as purchaser under registered sale deed. Accordingly, I answer **Point No.1 in the Affirmative.**

9. Point No.2 : For the above said discussion on Point No.1, I proceed to pass the following:

ORDER

The application i.e., I.A.No.VII filed by the applicant/proposed defendant No.3 U/O.I Rule 10 R/w. Sec.151 of Code of Civil Procedure is hereby allowed.

Plaintiffs are directed to implead proposed defendant as defendant No.3 in the suit.

Further, plaintiffs are directed to amend the plaint accordingly and to file the amended plaint.

(Dictated to the stenographer directly on computer, revised by me & after corrections pronounced in the open Court on this the **21st day of April-2025.**)

**(Smt. Preeti L. Malavalli)
Prl. Civil Judge & JMFC,
Belagavi.**