

KABG040002452020



17.12.2025

O.S.No.91/2020

**ORDER ON I.A.NO.V FILED U/O.I RULE 10(2)
R/W. SEC.151 OF C.P.C.**

The counsel for plaintiff has filed application U/O.I Rule 10(2) R/w. Sec.151 of Code Civil Procedure (I.A.No.V), seeking to implead proposed defendants No.3 to 11 in the suit.

2. In the affidavit annexed to the application, the plaintiff has stated that the plaintiff is intending to implead the proposed defendants No.3 to 11 in the suit in view of contentions taken by defendants in Para-6 of their written statement. That all the members of the family and the sisters are not made party to the suit and they are necessary parties and further that defendants No.7 to 11 are the joint owners of R.S.No.225 of Hangarga Village. On

these grounds, the plaintiff has prayed to allow I.A.No.V.

3. On service of notice, the proposed defendants appeared, but did not file objection. The present defendants have also not filed any objection to present application. The proposed defendant No.7 was reported to be dead.

4. Heard arguments of the counsel for plaintiff. Perused the materials available on record.

5. The counsel for plaintiff (Applicant) argued that the proposed defendants No.3 to 11 are necessary parties to the suit and without impleading them, no proper adjudication can be made and prayed to allow the application.

6. At the outset, it is very much necessary to reiterate the provision of law as contemplated under Order I Rule 10 (2) of Code of Civil Procedure which reads thus:

‘(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.’*

7. At this point it is essential to discuss who is a necessary party:

‘A necessary party is a person who ought to have been joined as a party and in whose absence no effective decree could be passed by the Court. If a necessary party is not impleaded, the suit itself is liable to be dismissed.’

8. The plaintiff has stated that the proposed defendants are necessary parties and prayed to implead them as defendants No.3 to 11 in this suit. The present case is for the relief of partition and separate possession. It is pertinent to note that during pendency of this suit, the plaintiff amended the plaint and included another suit property i.e., R.S.No.225 and the proposed defendants No.7 to 11 are said to be the joint owners of said R.S.No.225 of Hangarga Village. Further, it is also pertinent to note that in view of contention taken by defendant No.1 in Para-6 of his written statement that the suit is bad for non-joinder of necessary party, the plaintiff has filed the present application in order to implead all the members of joint family in the present suit. As such, this being a suit for partition and separate possession, the present application deserves to be allowed as the presence of proposed defendants is very much necessary in order to adjudicate the matter finally and effectively and in their absence, no effective order can be passed. However, since the

proposed defendant No.7 is reported to be dead and the plaintiff has not taken any steps to bring his LRs on record, the application filed by plaintiff deserves to be allowed except in respect of the prayer against deceased proposed defendant No.7. Hence, I proceed to pass the following :

ORDER

The application filed by the applicant/plaintiff U/O.I Rule 10(2) R/w. Sec.151 of Code of Civil Procedure (I.A.No.V) is hereby partly allowed.

The plaintiff is directed to implead proposed defendants No.3 to 6 and 8 to 11 as defendants No.3 to 10 in the suit.

Further, plaintiff is directed to amend the plaint accordingly and to file the amended plaint by 13.01.2026.

**Prl. Civil Judge & J.M.F.C,
Belagavi.**