

ORDERS ON I.A.No.VI UNDER ORDER 1 RULE 10
R/w. SECTION 151 OF C.P.C

The plaintiff has filed this IA seeking impleadment of the proposed defendant no.2 and 3.

2. In the affidavit annexed to the application, it is averred that the suit is filed for the relief of perpetual injunction. During the pendency of the suit, the defendant has illegally and high highhandedly constructed the building over the eastern portion of the suit plot.

3. It is further averred that, it has been learnt from the information furnished by the HESCOM that defendant no.1 has inducted proposed defendant no.2 on some portion

of the suit property and defendant no.1 has also inducted proposed defendant no.3 in another portion of the suit schedule property. Thus, proposed defendant no.2 and 3 are in possession of the portion of the building constructed over the suit schedule property. Therefore, they are the necessary parties. Accordingly, plaintiff prayed to allow the application.

4. After the institution of the application, notice were issued to the proposed defendants. Proposed defendants were served. Proposed defendant no.2 had appeared before the court through an advocate. He is not filed objections. Proposed defendant no.3 has not appeared before the court.

5. Heard the learned counsel for the plaintiff. Perused the materials available on record.

6. Now the points that arise for consideration are as follows;

1. Whether the application deserves to be allowed?
2. What order?

7. My answer to the above points are as hereunder:

Point No.1: In the Affirmative

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

REASONS

8. **Point No.1:-** Originally, the suit is filed for perpetual injunction restraining the defendants from putting up any construction over the suit plot and also from interfering with the plaintiff's possession over the suit schedule property. It appears that the plaintiff had amended the plaint and added the relief of mandatory injunction directing the defendant to demolish the construction made in the suit schedule property and to deliver the actual possession of the suit schedule property.

9. If the case of the plaintiff was for a bare injunction, the court would not have entertained this application as there is no cause of action against the proposed defendants in a suit of injunction. However, the plaintiff has converted the suit for mandatory injunction and to for possession. It is the claim of the plaintiff that the proposed defendant no.2 and 3 are now in possession of the property. Thus, they would become the necessary parties to the proceedings. Their presence is necessary for complete adjudication of the case. Therefore, IA deserves to be allowed. Accordingly, ***Point no.1 answered in the Affirmative.***

10. **Point No.2:-** In view of the above discussion, I proceed to pass the following:

ORDER

I.A. filed by the plaintiff under Order I Rule 10 R/w Section 151 of CPC is hereby allowed.

Plaintiff is directed to array proposed defendants as additional defendants. Plaintiff to carry out the amendment and for amended plaint.

Call on 5.02.2025

**C/c III Addl. C. J. & JMFC,
Belagavi.**