

KABG040015722025



**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 25TH DAY OF APRIL-2026

ORIGINAL SUIT NO.601/2025

PLAINTIFFS :

1)	Shri. Adivappa Mallappa Ragipatil & another.
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Vs.

DEFENDANTS :

1)	Shri. Kedari Ningappa Jalakannavar & others.
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PARTIES TO I.A.NO.VI

Applicants/Plaintiffs :

1)	Shri. Adivappa Mallappa Ragipatil & another.
	(By Shri. S. I Ganamukhi, Adv.)

Vs.

Opponents/Defendants :

1)	Shri. Kedari Ningappa Jalakannavar & others.
	(Proposed defendant No.4 by Shri. P. K. Bagi, Adv. & Proposed defendant No.5 by Shri. P. S. Jadhav, 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 proposed defendants No.4 & 5
3.	The date on which the application is filed	03.09.2025
4.	Number of application	VI
5.	The date on which the objections are filed by different opponent	23.09.2025
6.	The date on which the orders were passed on the said application.	25.04.2026

**ORDER ON I.A.NO.VI FILED BY PLAINTIFFS U/O. I RULE 10
R/W. SEC.151 OF CODE OF CIVIL PROCEDURE**

The counsel for plaintiffs has filed application U/O.I Rule 10(2) R/w. Sec.151 of Code Civil Procedure (I.A.No.VI), seeking to implead proposed defendants No.4 and 5 in the suit.

2. In the affidavit annexed to the application, the plaintiff No.2 has stated that the defendants No.1 and 2 in collusion with defendant No.3 without any permission have illegally undertaken construction work in the suit property by posing themselves as owners of the said property and now the plaintiffs have come to know that the proposed defendants are the owners of their respective properties and the proposed defendant No.4 in collusion with defendant No.2 and the defendant No.1 in collusion with defendant No.5, have made encroachment over portion of suit property towards eastern and western side by undertaking construction work and thereby they are creating nuisance. That the plaintiffs had sought ad-interim temporary injunction before the Court, but the defendants No.1, 2, 4 and 5 managed the things and harassed the plaintiffs and thus the proposed defendants are necessary parties to this suit and their presence is necessary for effective disposal of the suit. That if the present application is allowed, no loss or hardship would be caused to the defendants, but if the same is not allowed, then the plaintiffs would be put to heavy loss and inconvenience. On these grounds, the plaintiffs have prayed to allow the application.

3. On service of notice, Shri. P. K. Bagi appeared for proposed defendant No.4 and Shri. P. S. Jadhav appeared for proposed defendant No.5. The proposed defendants No.4 and 5 have filed their separate objection statements. In the objection, the

proposed defendant No.4 has contended that the allegations made in the application are false and that the proposed defendant No.4 has been making construction in his property for last 1½ year and completed the construction in the year 2025 and during the said construction work, the plaintiffs did not raise any voice and after completion of the construction work, the plaintiffs have filed this false suit only with an intention to make wrongful loss to the proposed defendant No.4. That the proposed defendant No.4 is not necessary party to this suit and the plaintiffs have not produced any document to show the same. On these grounds, the proposed defendant No.4 has prayed to dismiss the application.

4. In the objection, the proposed defendant No.5 has stated that there are no averments in the plaint with respect to proposed defendant No.5 and there is no cause of action against the proposed defendant No.5 and the one shown in the plaint is only against defendants No.1 and 3. That the plaint averments do not disclose that the proposed defendant No.5 constructed any building in the property and as such she is not necessary party to the suit. The alleged construction is already completed in the year 2018-19 i.e., much prior to the date of filing of this suit and also no declaration is sought in the present suit. On these grounds the proposed defendant No.5 has prayed to dismiss the application.

5. Heard. Perused the materials available on record.
6. On the basis of said application, the following points arise for my consideration :
- i) Whether the applicants/plaintiffs have made out grounds to allow the application ?
 - ii) What order ?
7. 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

8. **Point No.1 :** The counsel for plaintiffs (Applicants) argued that the proposed defendants No.4 and 5 are necessary parties to the suit and without impleading them, no proper adjudication can be made and prayed to allow the application.
9. 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.'

10. 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.'

11. The plaintiffs have stated that the proposed defendants No.4 and 5 are necessary parties and prayed to implead them as defendants No.4 and 5 in this suit. The present case is for the relief of permanent injunction to restrain the defendants from putting up any type of illegal and unauthorized construction by encroaching upon the portion of suit schedule property shown by letters EFGH and ABCD in the hand sketch annexed to the plaint. After filing the suit, the plaintiffs also pressed on temporary

injunction against the defendants to restrain them from putting up such construction in the suit schedule property pending disposal of the suit. On hearing both sides, this Court dismissed the said application on the ground that the plaintiffs have not produced any document to show the exact measurement of suit schedule property and also on the ground that the defendant No.2 is not shown as adjacent owner towards any side of the suit property and moreover the plaintiffs have stated in their correspondence letters written to Chief Executive Officer of Zilla Panchayat, Belagavi on 09.05.2025 that towards eastern side of suit property, one Mahadevi Jalakannavar and towards western side of suit property one Virupaxi Itagi have encroached upon the suit property and constructing building therein illegally and they are not parties to this suit. The said Virupaxi Itagi and Mahadevi Jalakannavar are none other than the proposed defendants No.4 and 5 under I.A.No.VI. Such being the case, since the previous correspondence between the plaintiffs and Taluka and Zilla Panchayat, Belagavi show that the said persons have tried to encroach upon the suit schedule property, their presence would aid this Court in deciding the dispute between the parties finally and effectively. The said correspondences have occurred even prior to the filing of present suit. As such, this Court deems it fit to allow the present application in order to implead the proposed defendants No.4 and 5 in the suit. The proposed defendants No.4

and 5 become necessary parties and their presence is required to adjudicate the matter effectively. The objections raised by the proposed defendants that the construction of their properties have been completed much prior and now there is no cause of action against them, is matter of trial and it cannot be decided at this stage. Hence, the application filed by plaintiffs deserves to be allowed. Hence, I answer **Point No.1 in the Affirmative.**

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

ORDER

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

The plaintiffs are directed to implead proposed defendants as defendants No.4 and 5 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 **25th day of April-2026.**)

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