

KABG040025052024



28.03.2025

O.S.No.935/2024

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

Counsel for plaintiff has filed application U/O.I Rule 10(2) R/w. Sec.151 of Code Civil Procedure (I.A.No.III), seeking to implead proposed defendants No.3 to 5 in the suit.

2. In the affidavit annexed to the application, the plaintiff has stated that the proposed defendants are custodian of the records of plaintiff and her husband and the plaintiff is intending to seek relief against the said parties also and as such it is necessary to implead them as defendants in the case. On these grounds, the plaintiff has prayed to allow I.A.No.III.

3. On service of notice, the learned D.G.P. appeared for proposed defendants No.3 to 5 and submitted his oral objection by stating that there is no cause of action against defendants No.3 to 5 and that they are not necessary parties.

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

5. Counsel for plaintiff (Applicant) argued that the proposed defendants No.3 to 5 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.'

A plain reading of the above said provision of law clearly reveals that it is necessary to add parties in order to enable the Court to arrive at effective and complete adjudication of the matter.

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 No.3 to 5 are necessary

parties and prayed to implead them as defendants No.3 to 5 in this suit. The present case is for the relief of declaration to declare the name of plaintiff as Jayasheela Havaleppa Jawoor W/o. Shanmukha S. Ningannavar and mandatory injunction directing the defendants to rectify the same in the records. Such being the case, the proposed defendants No.3 to 5 being custodian of documents according to the plaintiff and since the plaintiff has stated that she is intending to claim relief against the said proposed defendants, they are to be made parties to the suit. Hence, the application filed by plaintiff deserves to be allowed. 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.III) is hereby allowed.

Plaintiff is directed to implead proposed defendants No.3 to 5 as defendants No.3 to 5 in the suit.

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***Further, plaintiff is directed to
amend the plaint accordingly and to
file the amended plaint by 09.04.2025.***

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