

PARTICULARS

I	Provision under which the application is filed	Under Order I Rule 10(2) R/w. Section 151 of CPC
ii	Relief sought for	For Impleadment
iii	The date on which the application is filed	07.02.2024
iv	Number of application	I.A.No.XII
v	The date on which the objections are filed by different opponents	02.03.2024
vi	The date on which the orders were passed on the said application	11.02.2025

**ORDERS ON I.A.No.XII FILED UNDER ORDER I RULE
10(2) R/W. SECTION 151 OF C.P.C BY THE 3rd PARTY
APPLICANT**

The applicants have filed this IA seeking impleadment in the suit.

2. In the affidavit, the applicants claimed that they are also owners in respect of property bearing Sy No.708/5 which is one of the suit property. They claim that originally property in Sy No 708/5 belonged to Somanath S/o Appaji Davari. He had several lands. The ancestress of the parties to the suit and the ancestress of the 3rd party applicants had agreed to work as laborers in the lands of Somanath Davari. Instead of salary, Appaji Davari has given 4 and ½ guntas of land in 708/5 to the family of the parties to the suit and another 4 ½ guntas of the land to the ancestress of the applicants. However, the ancestress of the parties to the suit have got mutated their name to entire 9 guntas of land.

3. It is further averred that since the 3rd party applicants have rights over the suit schedule property, they have to be arrayed as parties to the suit. Accordingly, they prayed to allow the application.

4. The plaintiff has filed objections contending that the averments made in the affidavit are false. It is contended that the applicants have no right over R.S No.708/5 measuring 9 guntas of land. The property is standing in the

names of ancestress of the plaintiffs and defendants. The applicants have no way concern with the said property.

5. It is further averred that, having no concern with the property, the applicants have filed a suit and got compromised the suit with respect to property No.708/5. Therefore, the plaintiffs have filed another suit for declaration that the decree is null and avoid. In view of the same, they need not be made parties to the suit for partition. Accordingly, the plaintiff prayed to dismiss the application.

6. I have heard learned counsel for the plaintiff and defendants. Perused the materials available on record.

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

1. Whether the applicants are necessary parties to the suit?
2. What order?
8. 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

9. **Point No.1:-** The plaintiffs have filed suit for partition and separate possession. The plaintiffs have filed the suit against the family members claiming that the suit properties are the properties of Danaji Pawashe and they are LR's of Danaji Pawashe.

10. The applicants are not very strangers to the parties to the suit. They are also the decadents of brothers of Danaji Pawashe. They claim that they have a right in Sy No.708/5. Though no documents have been produced by the applicants to show their right, in the objections, plaintiffs themselves admit that there is a decree in respect to Sy No.708/5 in favour of the 3rd party applicants. It is also admitted that the plaintiffs have challenged the said decree. Under such circumstance, the 3rd party applicants have made out the case that they also have some semblance of right over Sy No.708/5.

11. Since it appears that the 3rd party applicants are also interested persons in respect to Sy No.708/5, they would become necessary parties to the proceedings and no effective adjudication can be made without the presence of the defendants. **Accordingly, Point no.1 is answered in the Affirmative.**

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

ORDER

I.A.No.XII filed by the 3rd party applicants under Order I rule 10(2) R/w. Section 151 of CPC is hereby allowed.

Applicants are permitted to come on record as additional defendants.

Plaintiff to carryout the amendment and to file amended plaint.

Call on 22.02.2025.

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