

**IN THE COURT OF THE PRL CIVIL JUDGE & JMFC.,
ATHANI**

PRESENT

**Sri. Onkaramurthy H.,
B.Com., LL.B.,
I Addl. Civil Judge & JMFC., Athani.
C/C.Prl. Civil Judge & JMFC., Athani**

Dated this 12th day of February 2025.

O.S. No. 133/2024

1. Smt.Sujata D/o. Madhukar
Badigear, Age: 49 years, Occ:
Housewife, R/o. Desarhatti, Tq:
Athani, Dist Belagavi.

...Plaintiff

V/s.

1. Sri. Hanamant Ramu Badigear,
Age: 51 years, Occ: Carpenter
R/o: Desarhatti, Tq : Athani, Dist
Belagavi and another.

...Defendants

I.A. No.V

1. Smt.Sujata D/o. Madhukar
Badigear, Age: 49 years, Occ:
Housewife, R/o. Desarhatti, Tq:
Athani, Dist Belagavi.

.....Applicant /plaintiff

(Represented by Sri. M.L.Pujari, Advocate)

Vs

1. Sri. Hanamant Ramu Badigear,
Age: 51 years, Occ: Carpenter
R/o: Desarhatti, Tq : Athani, Dist
Belagavi.

..Opponent / Defendant. No.1

(D-1 Represented by Sri.K.H.Awati, Advocate)

ORDERS ON IA No.V FILED U/o.1 RULE 10[2] OF CPC.

1. Present application has been filed by the plaintiff seeking for pray permission to strike out the defendant No.2.
2. In the affidavit annexed the applicant stated that, the present suit is filed for the relief of declaration and injunction against the defendant No.1 and the defendant No.2 is only formal party to the suit and he is not required to final adjudication of the dispute. Therefore, she intending strike out the defendant No.2.
3. The defendant No.1 filed objection and denying the entire plea of the applicant and stated that the above said application is not maintainable under law or on facts. Further submitting that the present suit filed with creating documents and with false facts and

circumstances of the case. And the plaintiff is filed this suit against the defendants without having knowledge about whom made a party to this suit and what relief should be claimed against whom. And the plaintiff is not comply the provision U/Sec.289 of Panchayat Raj Act, and filed this suit only with an intention to give trouble to the defendant. Even though plaintiff seeking for dispense of issuance of 60 days prior notice U/Sec.80(2) of CPC and when the defendant filed I.Ano.II for rejection of plaint then she filed above said application seeking for strike out the defendant No.2 and the defendant No.2 is necessary party to this suit, if strike out him the court cannot finally decide the dispute between the plaintiff and defendant. Hence, he pray for rejection of the said application with costs.

4. On the basis of aforesaid materials, following point would arise for my consideration:-

1. Whether the applicant has required to be strike out the defendant No.2 as prayed for?
2. What order?

5. Heard, the both side, and Perused the materials on record,

6. I answer the aforesaid points in the for the following:-

Point No.1: in the **Affirmative**,

Point No.2: as per the final order, for the following:-

REASONS

7. **Point No.1:** The applicant submitted that, the present suit is filed for the relief of declaration and injunction against the defendant No.1 and the defendant No.2 is only made as formal party and it is comes to know that, he is not required to continue as party to the suit for final adjudication of the dispute. Therefore, she pray for permission to strike out the defendant No.2. The defendant No.1 filed objection and denying the entire plea of the applicant and prayed for reject the application. Perused the materials on records, this suit filed for the relief of declaration and injunction. That to declare as the plaintiff is absolute owner of suit property and restrain the defendant No.1 from not to encroach the suit land as shown in rough sketch in the letter that ABCD and there is no any relief seeking against the defendant No.2. Therefore, I am of the opinion that the defendant No.2 is not a necessary party to the suit. Considering the facts and circumstances of the case, I am of the opinion that, the applicant has

made out grounds to allow her application. Hence, I answer point No.1 in the Affirmative.

8. Point No.2:- In the light of foregoing discussions, I proceed to pass the following:-

ORDER

Application filed U/o. 1 Rule 10 (2) R/w
Sec.151 of CPC., by the applicant is hereby allowed.

For amendment and amended plaint by :

(Dictated to the stenographer directly on computer, typed by
her, corrected by me and then pronounced in the Open Court on this
12th day of February, 2025).

(Sri. Onkaramurthy H.)
I Addl. Civil Judge & JMFC., Athani.
C/C.Prl. Civil Judge & JMFC., Athani.