

KABG210007902010



**IN THE COURT OF THE I ADDL. CIVIL JUDGE &
J.M.F.C., ATHANI,
AT: ATHANI**

PRESENT: SRI. RAVINDRA S. HAVARGI
B.A.,LL.B(HONS.),M.B.A.,LL.M
I ADDL. CIVIL JUDGE & J.M.F.C., ATHANI.

DATED 2nd DAY OF JULY - 2026

O.S.No.1151/2010

1. Smt. Gouravva W/o. Gurupad @ Gurappa Honagouda.

....Plaintiff.

V/s.

1. Smt. Mahadevi W/o. Suresh Billur and others.

.....Defendants.

PARTIES TO I.A.No.V

1. Smt. Gouravva W/o. Gurupad @ Gurappa Honagouda.

.....Applicant/Plaintiff.

V/s.

1. Shri. Mallappa Muttappa Maranur and others.

.....Opponents/Defendants No.4 to 7.

1.	Provision under which the application is filed	Under Order 1 Rule 10 R/w Sec.151 of CPC
2.	Relief sought for	Impleading Proposed Defendants No.4,5,6 and 7.
3.	The date on which application is filed	04.02.2026
4.	No. of the application	I.A. No.V
5.	The date on which the objections are filed by different Opponents	06.04.2026
6.	The date on which the orders were passed on the said application.	02.07.2026

**ORDER ON APPLICATION FILED UNDER ORDER 1
RULE 10 R/W. SEC 151 OF C.P.C.**

The present application is filed by the Plaintiff at the stage of further Plaintiff evidence if any.

The present application is filed by the Plaintiff U/O.1 Rule 10 R/W Sec.151 of CPC, seeking to implead proposed Defendants No.4 to 7 as proper & necessary parties in the above suit, for the reasons stated in the accompanying affidavit.

2. Brief Facts Of The Application Are As Under;

In support of the application, the Plaintiff has filed her affidavit stating that, she has filed this suit against the Defendants seeking the relief of declaration and she is the absolute owner of the suit property as the sole legal heir and also sought for consequential relief of permanent injunction. Further it is stated that she had filed an application for

impleading the Defendant No.3 in the above case and he has appeared in the above case, but did not filed his written statement. The Defendant No.3 is not having any kind of right, title or interest over the suit property, but obtained compromise decree in O.S. No.1351/2013 and taking undue advantage of it got mutated his name in record of rights of R.S. No.28/3 to the extent of 06 Acres 10 Guntas and created hollow and colorable sale deed in respect of 02 Acres 00 Guntas PK 00-04 Guntas bearing R.S. No.28/4 of Hallalli village in favour of proposed Defendant No.5 and the said proposed Defendant No.4 having no right, title or interest got mutated his name in the record of rights.

3. Further it is stated that the proposed Defendant No.4 taking undue advantage of his name created hollow and colourable sale deed in respect of 02 Acres 00 Guntas PK 00-04 Guntas in favour of proposed Defendants No.6 and 7 and the said proposed Defendants No.6 and 7 having no right, title or interest got mutated their names to the said land.

4. Further it is stated that the Defendant No.3 knowing fully about the pendency of the suit illegally mutated his brother name i.e. proposed Defendant No.4 to the extent of 02 Acres 06 Guntas under M.R. No.H22/2021-22 and alleged registered sale deed in respect of suit property in favour of proposed Defendant No.5. The proposed Defendants No.4 to 7 knowing fully well about the pendency of the suit have purchased the suit property through alleged registered sale deed and their names are mutated in the record of rights of suit

property. Hence, their presence before this court is very much necessary to adjudicate the matter in dispute. Hence, seeks to allow the application.

5. On the other hand after filing this application, notice was issued to the proposed Defendants No.4 to 7 and in pursuance of the same, they have appeared through their counsel and filed their objections.

6. In the objections it is contended that the application filed by the Plaintiff is false and not maintainable in the eye of law. The application is barred by law of limitation. The OS.No.1151/2010 is dismissed on 13.06.2016. The proposed Defendant No.3 has compromised in OS.No.1351/2013 on 28.10.2013 and as per it his name is effected in suit property as per MR No.36/2014-15. The said fact is known to the Plaintiff and in spite of knowing it she has not impleaded proposed Defendant No.3 as necessary party in this suit. In the same way the Plaintiff preferred R.A.No.56/2017 dated:24.11.2017 and in the said appeal also proposed Defendant No.3 is not made as a party. As the Plaintiff did not obtain the injunction order in R.A.No.56/2017 and after dismissal of OS.No.1151/2010, the Plaintiff filed another suit bearing OS.No.1060/2017. The proposed Defendants No.3 and 5 were parties to O.S.No.1060/2017 prior to 2021. The proposed Defendant No.5 has lawfully got executed sale deed dated 26.04.2016 and as per it his name is recorded. The proposed Defendant No.4 and 3 have partitioned and therefore M.R. No.H22/2022 is certified in the name of proposed Defendant No.4 on 08.11.2021. The

proposed Defendants No.6 and 7 have lawfully got executed the sale deed dated 28.08.2025 from proposed Defendant No.5 and the same is certified in M.R. No.H18/2025-26. The proposed Defendants No.3 to 7 are in their possession and enjoyment of their properties and growing crops without anybodies interference.

7. Further it is contended that the proposed Defendant No.3 has lawfully obtained compromise decree in OS.No.1351/2013. The Plaintiff has not challenged the MR and therefore the Plaintiff cannot implead the proposed Defendants in the above suit. The facts stated in the affidavit are denied as false and sought for dismissal of the application. The Plaintiff was never in possession and enjoyment of the suit property. The application is not maintainable in the eye of law. The delay is not properly explained, no documents are produced in support of the application. Hence, seeks to dismiss the above application with cost of Rs.10,000/-.

8. Heard the arguments.

9. On the basis of the above said facts and circumstances the points that arise for my consideration are as under:

POINTS

1. Whether the Applicant/Plaintiff has made out grounds for impleading proposed Defendants No.4 to 7 as proper and necessary party in the above suit?

2. What Order or Relief ?

10. My findings to the points are as under:

Point No.1 : ***In the Affirmative***
Point No.2 : ***As per final order***
for the following :-

: REASONS :

11. **POINT NO.1** :- The above suit is filed by the Plaintiff against the Defendants No.1 and 2 seeking the relief of declaration that she is the absolute owner of the suit property and consequential relief of permanent injunction against the Defendants No.1 and 2. In the present suit the Defendants No.1 and 2 had appeared through their counsel and filed their written statement and sought for dismissal of the suit. Necessary issues were framed and Plaintiff has led her evidence and thereafter the above suit was dismissed on 13.06.2016. Thereafter appeal R.A.No.56/2017 on the file of the Hon'ble Addl. Senior Civil Judge, Athani Court was preferred by the Plaintiff and the said appeal was allowed on 04.07.2025. After allowing the appeal the Hon'ble Appellate Court directed this court to dispose of the application filed by the Plaintiff U/Order 1 Rule 10(2) R/W Sec.151 of CPC in accordance with law on merits and also directed to give opportunity to both the parties to file their pleadings and to lead evidence. The Plaintiff and Defendants were directed to appear before this court on 01.08.2025 without accepting any further notice. Thereafter the Plaintiff and Defendants No.1 and 2 have appeared through their counsel. IA.No.IV filed U/Order 1 Rule 10(2) R/W Sec.151 of CPC seeking to implead the proposed Defendant No.3 is allowed on 11.12.2025.

12. Now this IA.No.V filed U/Order 1 Rule 10 R/W Sec.151 of CPC to implead the proposed Defendants No.4 to 7. Notice was issued on this application and in pursuance of the notice the proposed Defendant No.4 to 7 have appeared through their counsel and filed objections. This court has already narrated the brief facts of the application and the contentions raised by the other side in the previous paragraphs. Therefore, in order to avoid repetition of facts this court would directly deal with the merits of the application.

13. After hearing the submissions and on perusal of the records this court observes that, as per the Plaintiff she is the absolute owner of the suit properties and she is in possession and enjoyment of it. It is alleged by the Plaintiff that during the pendency of the suit, the suit property bearing R.S.No.28/1B was mutated in the name of proposed Defendant No.3. This fact is not disputed by the proposed Defendant No.3. The proposed Defendant No.3 was impleaded in the above case as per order dated 11.12.2025. In the present application the proposed Defendants No.4 to 7 have also contended the same contentions as raised by the Defendant No.3. Therefore, in order to adjudicate the matter completely and to meet the ends of justice it is necessary to implead the proposed Defendants No.4 to 7 in the above case. The contentions raised by the proposed Defendants No.4 to 7 are matter of trial and same cannot be considered at this stage. Therefore, at this stage the Plaintiff has made out grounds for allowing the application subject to

reasonable cost. Therefore, **I answer the Point No.1 in the Affirmative.**

14. Point No.2:- As per the above said reasons and discussion, I proceed to pass the following:

ORDER

The application filed by the Applicant/Plaintiff under Order 1 Rule 10 R/w Sec.151 of CPC is hereby allowed on cost of Rs.500/-.

The Plaintiff is permitted to implead proposed Defendant No.4 to 7 in the above suit and directed to amend the plaint and furnish the amended plaint without casing delay.

[Dictated to the Stenographer directly on computer, typed by him, corrected by me and then pronounced in the Open Court on this the 2nd day of July - 2026]

Sd/-.

**(RAVINDRA S. HAVARGI)
I ADDL. CIVIL JUDGE & JMFC,
ATHANI.**