

ORDER ON IA-II

The plaintiffs have filed the present application under Order 1 Rule 10 (2) of C.P.C., wherein they have prayed to implead the proposed defendant No.10 in the suit.

2. In the affidavit filed along with the present application the plaintiff No.13 has sworn to the facts that the proposed defendant No.10 is one of the sons of Chango and brother of defendants No.6 to 9. At the time of institution of the suit due to oversight and inadvertence he was not made as a party to the suit. But now it is necessary to implead him as party in the suit. If this IA is allowed no prejudice will cause to the other side, but on the other hand it may cause irreparable losses and hardship to the plaintiffs. On these grounds the plaintiffs prayed to allow the present application.

3. Per contra the defendants No.1 to 3 have filed their objections, wherein they have contended that the suit property belongs to defendants No.2 and 3, who were sold it to defendant No.1. Further at no point of time the plaintiffs and defendants No.4 to 9 and the proposed defendant No.10 are concerned with the suit property. The suit property absolutely belong to defendants NO.2 & 3 and now it is in the name of defendant No.1. Hence impleading proposed defendant No.10 in the present suit is

not necessary. On these grounds the defendants No.1 to 3 prayed to dismiss the application.

4. Heard the learned counsel for the plaintiffs and the defendants. Perused the material placed on record carefully.

5. The plaintiffs have instituted the present suit for the cancellation of the sale deed dated 15/04/2016 which has been executed by the defendants No.2 to 3 in favour of defendant No.1 and also prayed for the permanent injunction against defendants No.1 to 4. From the very prayer it is made out that the plaintiffs have not sought for any relief against defendants No.5 to 9. Under such circumstances impleading of proposed defendant No.10 is not necessary. However at para No.3 of the plaint the plaintiffs have averred that themselves and defendants No.5 to 9 are in joint possession, cultivation and enjoyment of the suit property as tenants and they are growing crops over it. Under such circumstances the proposed defendant No.10 being the brother of defendants No.5 to 9 and one of the sons of Chango is a necessary party to the present suit. Though no relief has been sought against defendants No.5 to 9, by considering the contention of the plaintiffs that themselves and Chango family are in possession of the suit, the application filed by the plaintiffs to implead the proposed defendant No.10

deserves to be allowed. Hence this court proceed to pass the following:

ORDER

The IA-II filed by the plaintiffs is hereby allowed.

No order as to costs.

For amendment and amended plaint call on 23/10/2020.

Sd/-

(Smt. Vinutha B.S.)
IV Addl. Civil Judge & JMFC, Belagavi.