

06-06-2026:

ORDERS ON IA No.4

The plaintiff has filed the present application under Order I Rule 10 (2) of CPC seeking permission to implead the person whose names and address are shown in the application as additional defendants in the suit.

2. In the accompanying affidavit filed in support of the application, it is stated by the plaintiff that she has instituted the present suit for partition and separate possession against the defendants in respect of the suit properties. It is stated that the matter is presently posted for plaintiff's evidence. During the course of cross-examination, it came to be noticed of the plaintiff that the propositus Kallappa had daughter by name Iramma W/o Fakirappa Inchal, and that the legal heirs of Fakkirappa, Ningappa and Virupaxi, who are decedents of the propositus Kallappa, are also entitled claim shares in the suit properties. Therefore, they are necessary and proper parties for effective adjudication of the dispute involved in the suit. It is further contended that the proposed parties are the legal heirs and decedents are propositus Kallappa. It is stated that the proposed impleadment does not alter

the nature of the suit and it will help the Court to find out the real controversy between the parties. Hence, the plaintiffs have sought implead the proposed parties as additional defendant.

3. In response to the notices the proposed defendants remained absent except proposed defendant No.24, who appeared in person and submitted no objection for allowing the application. The existing defendants have also not filed any objections to the application despite sufficient opportunities.

4. Heard the learned counsel for the plaintiff. Perused the application, affidavit, material available on record.

5. The point that arise for consideration is:

“Whether the plaintiff has made out sufficient grounds to implead proposed parties as additional defendants under Order I Rule 10 (2) of CPC ?”

6. My findings on the above point is in the affirmative, for following:

REASONS

7. The suit is one for partition and separate possession. In a suit for partition all co-sharers and persons having a possible interest in the joint family properties are necessary parties, as the court is required to determine the shares of all persons entitle to a share in the suit properties and pass an effective and executable decree.

8. In the present case, the material placed on record discloses that the proposed parties are stated to be the daughter of the propositus Kallappa and decedents/legal heirs of Fakkirappa, Ningappa and Virupaxi who are branches of the family of the propositus. The plaintiff has specifically contended that their existence and entitlement came to light during the course of evidence and that they are entitle to claim share in the suit properties.

9. Order I Rule 10 (2) of CPC empowers the Court to add any persons as a party at any stage of the proceedings if such person's presence before the Court is necessary in order to enable the Court to effectively and

completely adjudicate upon and settled all the questions involved in the suit.

10. In the present case, the proposed parties are alleged to be co-sharers and decedents of the common ancestor. Therefore, their presence is necessary for complete and final adjudication of the controversy involved in the partition suit. On the contrary, if they are not brought on record, there is every possibility of future litigation and multiplicity of proceedings. Further, their impleadment would facilitate effective determination of the shares of all concerned persons. Further, neither the existing defendant nor the proposed defendants have opposed the application. Hence, no prejudice would be caused to any of the parties by allowing the application. On the contrary, their presence would assist the Court in completely and effectively adjudicating the rights of all persons interested in the suit properties. Therefore, this Court is of the considered opinion that the proposed parties are necessary and proper parties to the proceedings and the application deserves to be allowed. Accordingly, the point for consideration is answered in the Affirmative.

11. In view of the above findings and discussion made, I proceed to pass the following:

ORDER

IA No.4 filed by the plaintiff under Order I Rule 10(2) of CPC is hereby allowed.

The persons shown in the application shall be impleaded as additional defendant Nos.17 to 32 in the suit.

The plaintiff is directed to carry out the necessary amendment in the cause title.

Call on for amendment and amended plaint by 19-06-2026.

No order as to costs.

(Dictated to the stenographer, transcribed by him and corrected, revised then signed by me and pronounced in the open Court on this the 6th Day of June, 2026)

(Ravi Babu Chawan)
Senior Civil Judge, Bailhongal.

