

KABG410005982014



IN THE COURT OF THE II ADDL. CIVIL JUDGE &
JMFC, CHIKODI, AT: CHIKODI.

Present : **Sri. Nagesh Patil,**
 B.Com.,LL.B.
 II Addl. Civil Judge & JMFC,
 Chikodi.

Dated this 2nd day of July 2022

Original Suit No.158/2014

Plaintiffs: 1. Roshanbi W/o. Gous Shanediwane,
 R/o: Shanidiwane Galli, Nippani,
 Tq: Chikodi, & another

(By Shri. K.R. T, Advocate)

//Vs//

Defendants: 1. Hajarabi W/o. Bapu Naikwade,
 and others.

(By Sri. R.A. D, Advocate)

Parties To I.A.No.9

Applicants/Proposed Plaintiff No.3:

1) Hanifa W/o. Abbas Momin,

//Vs//

Opponents/Ori. Plaintiffs:

- 1) Roshanbi W/o. Gous Shanediwane,

ORDER ON I.A.NO.9

The plaintiffs have filed I.A.No.9 under Order 8 Rule 9 R/w sec.151 of CPC seeking permission to file replication/rejoinder i.e., to add subsequent pleadings in view of recent adding of plaintiff No.3.

2. On the other hand the defendants have filed objections to the application.

3. Heard both sides. Perused the materials on record.

4. The points that would arise for Consideration is as under:

POINTS

- 1) Whether the application filed by the plaintiff No.3 is deserves to the allowed?

2. What Order?

5. My answer to the above points are as under.

Point No: 1: Affirmative.

Point No: 2: As per final order,
for the following:

:: R E A S O N S ::

6. Point No.1:- In support of the application plaintiff No.3 has filed an affidavit sworn to by her wherein stated that the plaintiffs have filed this suit for the relief of partition and separate possession of their legal share in the suit schedule properties and plaintiff Nos.1 and 2 have requested to grant her 1/8th share to them, as such she has orally gifted her 1/8th legal share infavour of plaintiff Nos.1 and 2 on 16.11.2013 before witnesses. After filing of this suit recently she has been impleaded as plaintiff No.3 and this suit is filed for partition and without adding her as necessary party this suit would be bad for non joining of her. So it is just and necessary to file her pleadings in the case. Hence, permission may kindly be granted to file replication/rejoinder, if same is allowed no harm or loss will be caused to the defendants and if same is not permitted then she will be put to heavy loss which cannot be compensated in terms of money. Accordingly prays to allow the application.

7. On the other hand, the defendants have filed objection wherein contended that the application is not maintainable in law. The contents of affidavit are not true and correct and they have specifically contended that the plaintiff No.3 is suffering from paralysis and she is unable to understand the things properly and her mental condition is not proper. The plaintiffs have got created false and bogus Hibanama. The plaintiff No.3 is also unable to orally gift her share as she is not mentally and physically fit. Hence prays to dismiss the application.

8. In the light of the rival contentions taken by both the parties, I have gone through the pleadings and documents. The plaintiffs have filed this suit for partition and separate possession in respect of the suit properties and during the pendency of suit the this plaintiff No.3 is has been impleaded in this suit. As such the she has filed this application seeking permission to file replication/rejoinder to the suit and if same is permitted to file no prejudice will be caused to the defendants. But if same is dismissed it leads to multiplicity of proceedings. Hence, in order to determine the real question in controversy between the parties it is just and necessary to allow the plaintiff

No.3 to file her replication/rejoinder. Hence, the plaintiff No.3 has made out proper reasons to allow the application. **Accordingly, point No.1 answered in the affirmative.**

9. Point No.2: In view of the aforesaid reasons, I proceed to pass the following:

ORDER

I.A.No.9 filed by the plaintiff under Order 8 Rule 9 R/w Section 151 of C.P.C seeking permission to file replication/rejoinder is allowed.

The plaintiff is permitted to file replication/rejoinder.

(Dictated to the Stenographer, typed by her, corrected & then pronounced by me in the Open Court on this the 2nd day of July 2022).

**II Addl.Civil Judge & JMFC.,
Chikodi.**