

KABG500002412022



Presented on : 19-02-2022

Registered on : 21-02-2022

**IN THE COURT OF
PRL SENIOR CIVIL JUDGE GOKAK AT
GOKAK,BELAGAVI**

Presided Over by Smt. Deepa. G

O.S./142/2022

Exhibit No.:

Plaintiff:

Jagadeesh S/o Yamanappa Hatti

Age: 48

Occupation :

Address: R/o.Laxmipura Arshikar, Tq,Arashikeri

2: Kaveri W/o Mallappa Somappanavar

Age:

Occupation :

R/o.Bailhongal

Tq.Bailhongal

3: Ambrish S/o Yamanappa Hatti

Age:

Occupation :

R/o.Shiltibhavi

Tq.Goka

VERSUS

Defendent:

Yamanappa S/o Hanamant Hatti

Age: 82
Occupation :
Address: R/o.R.T.Nagar, Bengalore

2:Gangavva W/o Yamanappa Hatti

Age: 70
Occupation :
R/o.Shiltibhavi
Tq.Gokak

3:Chandravva W/o Uddappa Hatti

Age: 70
Occupation :
R/o.Mamadapur
Tq.Gokak

4:Laxmavva W/o Dyamanna Lingaraddi

Age: 38
Occupation :
R/o.Yarajaravi
Tq.Savadatti

5:Vasu S/o Uddappa Hatti

Age: 35
Occupation :
R/o.Mamadapur
Tq.Gokak

6:Chandrappa S/o Hanamant Hatti

Age: 71
Occupation :
R/o.Munnoli
Tq.Savadatti

7:Prashant S/o Chandrappa Hatti

Age: 36
Occupation :
R/o.Munnoli

Tq.Savadatti

8:Shridhar S/o Chandrappa Hatti

Age: 32

Occupation :

R/o.Munnoli

Tq.Savadatti

9:Basavva W/o Basappa Hatti

Age: 65

Occupation :

R/o.Yarajaravi

Tq.Savadatti

10:Renuka W/o Shrikant Hanji

Age: 40

Occupation :

R/o.Janata Plot

Gokak

Tq.Gokak

11:Hanamant @ Hanamantappa S/o Basappa Hatti

Age: 38

Occupation :

R/o.Yarajaravi

Tq.Savadatti

12:Rekha W/o Fakirappa Patil

Age: 30

Occupation :

R/o.Gudamakeri

Tq.Savadatt

ORDERS ON IA No.11, FILED U/O 1 R 10 R/W SEC 151
OF CPC.

The advocate for applicants has filed the above application and sought for permission to implead themselves as defendant Nos.16 & 17 on the grounds that the plaintiffs have filed the above suit against the defendants for the reliefs of partition and separate possession in respect of the suit schedule properties. These applicants have legitimate shares in the suit schedule properties. But, the plaintiffs knowingly full well that they are also sharers, not included the applicants who the wife and son of the deceased Suresh S/o. Kenchappa.

2. Further, the deceased Kenchappa is the brother of the Hanamantappa. The said Kenchappa died long ago leaving behind his sons and daughters. Due to the wedlock of applicant No.16 with the deceased Suresh, they have 4 sons and a daughter apart from the applicant No.17/son. The plaintiffs have intentionally not impleaded them as necessary parties to the suit. The fact of institution of the suit came to the knowledge of the plaintiffs, recently.

Hence, they have constrained to maintain the instant application. The proposed defendants are the necessary parties. Hence, without their presence court cannot decide the suit on merits. Hence, if the application is allowed, no hardship will be caused to the other side and on the other hand, if the application is not allowed, much hardship will be caused to these applicants and accordingly, sought for allowing the application.

3. On the other hand, the plaintiffs have filed the objections to the application by contending that the contents of the application and affidavit are false, incorrect, vexatious, misconceived and untenable in law and contended that these applicants are not necessary parties to the suit as they are not at all concerned to the family of these plaintiffs. The applicants have not at all produced any relevant documents to implead them as necessary parties. The applicants have no right, title and interest over the suit schedule properties. Hence, the application is not tenable in law and accordingly, sought for dismissal of the application with heavy cost. Subsequently, the applicants have

produced certified copy of order sheet and plaint pertaining to O.S.No.411/2021 on the file of Prl.Civil. Judge, Gokak.

4. Heard the advocate for applicants on I.A. Advocate for plaintiffs sought to consider the objections as his arguments. Perused the material on record.

5. The points that arise for my consideration are:

1. Whether the applicants are the proper or necessary parties to the suit?

2. What Order?

6. My findings on the above Points are:

Point No.1: In the **Negative**.

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

R E A S O N S

7. **Point No.1:** On perusal of the material on record it reveals that the plaintiffs have maintained the instant suit

against to the defendants for the reliefs of partition and separate possession in respect of the suit schedule properties.

8. Upon service of summons, the defendants have appeared through their counsel of choice and filed written statement. Subsequently, when the case was set down for evidence of the plaintiffs, these applicants have come up with the instant application and sought for permission to implead themselves as defendant Nos.16 & 17 alleging that they are also sharers and are concerned to the suit schedule properties. Whereas, the plaintiffs have resisted the contention of the applicants and sought for dismissal of the application.

9. Whereas, it appears that upon the contention of the plaintiff that the applicants have not produced any documents in support of their contention, the applicants might have produced certified copy of order sheet and plaint pertaining to O.S.No.411/2021. The very perusal of the documents, one can infer that though they have been shown as LR's of deceased Suresh, their address mentioned

in the application schedule and in the cause title of O.S.No.411/2021 differs with each other. No explanation has been offered by the applicants in this regard.

10. That further, as per their own assertion in the affidavit, the deceased Suresh died leaving behind his 3 sons and a daughter apart from these applicants. The very averments of the affidavit are silent in respect of their failure to implead the other LRs of the deceased Suresh. That further, except the certified copies of the order sheet and plaint pertaining to O.S.No.411/2021, they have not at all produced any documents to substantiate the fact that they are also sharers of the suit schedule properties and are related to the families of the plaintiffs and defendants. Hence, they cannot be regarded as either proper or necessary parties to the suit. As such, in their absence also, court can determine all the matters in issue and draw decree effectively. Accordingly, this court is of the considered opinion that the applicants have failed to make out grounds to allow the application. Accordingly, the **Point No.1** is answered in the **Negative**.

11. **Point No.2**: For the aforesaid findings, I proceed to pass the following:

O R D E R

IA No.11, filed U/O 1 R 10
R/W Sec 151 of CPC by the
applicants is hereby dismissed with
cost of Rs.200/-.

To furnish amended plaint as
per orders dtd:31/03/2023 by
07/03/2024.

Prl.Sr.C.J.Gokak