

KABG500002412022



**ORDER ON I.A.No.XII FILED U/O I RULE X R/W SEC 151
OF CPC.**

The applicants are filed this present application U/o I Rule 10 R/W Sec.151 CPC at I.A.XII praying to implead them as defendants No.16 to 18 in the suit.

2. In the accompanying affidavit, the proposed defendant No.16 contended that the plaintiffs have filed this suit for partition and separate possession in respect of the suit property and they are also having legitimate share in the suit properties but the plaintiffs knowing fully well that they are also having share in the suit properties as they are the

daughters of deceased Suresh Kenchappa Hatti but they are not impleaded in the suit. The deceased Suresh Kenchappa Hatti is the son of deceased Kechanappa Uddappa Hatti. The Kenchappa was the brother of Hanamant @ Hanamanthappa and they are the sons of first wife of Uddappa by name Lasamavva. The Dyamavva was the second wife of Uddappa, out of the said wedlock, Ramappa and Shivappa were born. The Ramappa and his wife Paravva died issue less and out of the wedlock of Shivappa and his wife Tangevva, Ramappa was born. The Kenchappa died long back so also his son Suresh was also died. The said Suresh having brothers and sisters and they have the daughters of the deceased Suresh but the plaintiffs intentionally not impleaded the necessary parties to the suit and the plaintiffs have shown wrong genealogy in order to grab the valuable shares in the suit properties. The plaintiffs and defendants are in hurry to get the decree without making them as necessary parties to this suit. The fact of this suit was came to their knowledge recently as such, they have

got filed this present application. If they are not impleaded in the suit, they will be put to loss and their valuable share will be deprived and they will be put to irreparable loss and injury. If they are impleaded as defendants No.16 to 18, no loss or injury will be caused to the other side. As such, they prayed to allow the application.

3. The plaintiffs filed objections to this application by denying entire contentions of the applicants. The plaintiffs contended that the proposed defendants are not at all necessary parties to this suit as the proposed defendants are not at all concerned to their family and so also the suit properties. The proposed defendants are not produced any documents to show that they are the legal heirs of deceased Suresh. In the absence of such documents, they cannot be impleaded as defendants in the suit. The proposed defendants do not have any right, title or interest over the suit properties and they are not related to their family as such, they

are not necessary parties to this petition. Hence prayed to dismiss the application.

4. Heard counsel for applicant. The learned counsel for plaintiff filed the written arguments I have perused the same.

5. The points that arise for my consideration are;

1. Whether the proposed defendants are just and necessary parties to this suit?

2. What order?

6. My findings on the above points are:

POINT No.1: In the Affirmative

POINT No.2: As per final order

for the following;

REASONS

7. **POINT No.1:** This present suit is filed seeking the relief of partition and separate possession of the plaintiffs share in the suit schedule properties. The applicants are came up with present application contending that they are the daughters of deceased Suresh and they are just and necessary parties to this suit. It is specific contention of the applicants that Uddappa had two wives, first wife is Lasamavva and second wife is Dyamavva. Out of the wedlock of Uddappa and Lasamavva, Kenchappa and Hanamant were born and Kenchappa is having son by name Suresh. Out of the wedlock of Uddappa and Demavva second wife they are having two sons namely Ramappa and Shivappa. The Ramappa had wife by name Paravva, both died issue less. The Shivappa married one Tangevva and out of the said wedlock they have got one son by name Ramappa and the applicants were being the daughters of deceased Suresh, they are contending that they are also necessary parties to this suit. This present suit is filed seeking the relief of partition and separate possession and by

perusing the averments of this application, they contending that the Uddappa was having two wives and out of the first wife Lasamavva, they have got sons by name Kenchappa and Hanamanth and Kenchappa has got one son by name Suresh and they are the daughters of the Suresh. By perusing the genealogy furnished by the plaintiffs which shows that one Uddappa is the son of Hanamanth. The plaintiffs are contending that the applicants are not at all related to their family but by perusing the relationship stated by the applicants it appears that the proposed applicants are the grand daughters of deceased Uddappa, which shows that the applicants are also the family members of plaintiffs and defendants. As the applicants are contending that they are the daughters of deceased Suresh, if they are impleaded as defendants No.16 to 18 in the suit it will not cause any loss or injury to the plaintiffs and if the applicants are succeeded in establishing the relationship with the family of the plaintiffs and defendants, in that event they will get the share otherwise

the applicants will not get any share in the suit properties. By perusing the averments of the application, at this stage I am of the view that the applicants are also just and necessary parties to this suit and in their absence the suit cannot be adjudicated effectively. Hence, I answered **the Point No.1 in the Affirmative.**

8. **POINT No.2:** For the aforesaid findings, I proceed to pass the following:

ORDER

The application filed by the applicants
U/o I Rule 10, R/W Sec. 151 of CPC at
I.A.No.XII is hereby allowed.

The applicants are impleaded as
defendants No.16 to 18 in the suit.

Plaintiffs are directed to carry out
necessary amendment to the plaint and

furnish the amended plaint on or before
the next date of hearing.

Call on by 01/10/2024.

Sd/-

Prl. Sr.C.J.Gokak.