

ORDER ON IA NO.IV

The instant application has filed by the plaintiff U/o. I Rule 10 R/w Section 151 of CPC for impleading the proposed defendants as parties to the suit.

2. It is stated in the affidavit accompanying the application sworn by the plaintiff that, she has filing the present suit against the defendants for the relief of partition and separate possession in respect of the suit properties. It is further stated that, through oversight at the time of the filing of the suit she has not impleaded the proposed defendants No.5 to 9 as parties to the suit who are the wife, sons and daughter and grand sons of propositus Laxmappa. The propositus Laxmappa was got second marriage with Kashavva, due to their wedlock the Shantavva i.e., proposed defendant No.6 and Fakirappa were born. The said Fakirappa died leaving behind

his wife Sitavva, through their wedlock two sons i.e., Laxmappa and Nagaraj and daughter Kavita were born i.e., proposed defendants No.6 to 9. It is further stated that, the said fact is recently came to her knowledge when the defendants No.2 and 3 have filed their written statement contending the said fact. It is further stated that, defendant No.2 has executed a sale deed in respect of suit property Sy.No.410/2ಪ್ರಾ.ಮಾ. measuring 2Ac infavour of proposed defendant No.10 under registered sale deed dated: 29.07.1994 for consideration of Rs.30,000/- and also she has executed another sale deed in respect of suit property Sy.No.410/2ಪ್ರಾ.ಮಾ. measuring 03Ac infavour of proposed defendants No.11 and 12 under registered sale deed dated: 04.03.1999 for consideration of Rs.1,02,000/-. The said fact is recently came to her knowledge when she has obtained the records of said property. Hence in order to avoid multiplicity of proceeding the impleading the proposed defendants No.5 to 12 is just and necessary. On these grounds prays to allow the application.

3. On the other hand, though the defendants have not filed the objections in writing but have orally objected to allow the application with respect to proposed defendants No.10 to 12.

4. Heard both sides.

5. Perused the materials on record.

6. The plaintiff has filed the present suit for the relief of Partition and Separate Possession in respect of three landed properties claiming her legitimate share in the said properties. It is specifically shown in the schedule-A of the plaint at Sl.No.1 i.e., Sy.No.410/2 measuring 05Ac-37Gs and out of it 37Gs as a suit property. Now the plaintiff with a specific assertion in the affidavit that, the proposed defendants No.10 to 12 who are the purchaser of the properties in Sy.No.410/2ವ್ಯಕ್ತಿ to the extent of 02Acres and 3Acres in the year 1994 and 1999 respectively. Now the plaintiff is going to challenged the said sale deed by making them as parties to this suit. The sale transactions which are taken place way back about two and half decades. It is further pertinent to note that, at the time of filing the suit the plaintiff produced the record of right of suit Sy.No.410/2, wherein the name of the proposed defendants No.10 to 12 appearing in column No.9 of the said properties to their extent of lands. Under such circumstances, the plaintiff had knowledge about the said fact at the time of the filing of the suit and as stated supra

the sale deeds are not challenged either by the plaintiff or other defendants till today. Now the plaintiff cannot implead them as a parties to the suit by challenging the said sale deeds which is barred by law of limitation. However, soforas, the proposed defendants No.5 to 9 who are the family members of the plaintiff and defendants and the defendants have taken specific contention in the written statement as they are necessary parties to the suit having interest in the suit properties, hence they are necessary parties to the suit. Being that opinion, I proceed to pass the following:

ORDER

The IA No.IV filed by the plaintiff U/O I Rule 10 R/w Section 151 of CPC, is hereby allowed in part.

The proposed defendants No.5 to 9 are ordered to be impleaded as defendants No.5 to 9.

The counsel for the plaintiff directed to carry out the amendment in the cause title and furnish the amended plaint on next date.

For order on IA.No.5 call on 21.01.2025.

Sd/-

(Mahadev Kanatti)
I Addl. Senior Civil Judge,
Gokak