

IN THE COURT OF CIVIL JUDGE & J.M.F.C., AT SANDUR.

Present : Md. Shaiz Chouthai,

B.A.,LL.B. (Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur.

Dated: 25th day of August, 2026

O.S. No. 96/2020

Plaintiff : Smt. Nagarathnamma W/o Chandrasekhar,
Aged about 45 years,
Occ: Agriculturist,
R/o Lakshmipura village,
Sandur Taluk, Ballari District.

(By Sri. H.K., Advocate)

V/S

Defendant/s : Heerya Naik S/o Somla Naik,
and Another.

(By Sri. A.H.S. Advocate)

I.A. NO. VI

Applicant : Smt. Nagarathnamma,
W/o Chandrasekhar
(Plaintiff)

V/s

Opponents : Heerya Naik S/o Somla Naik,
and Another.
(Defendants)

ORDERS ON I.A. NO.VI FILED UNDER ORDER I RULE 10(2)
AND (3) R/w SEC. 151 OF C.P.C.

1. The instant application in I.A.No.VI is filed by the plaintiff under Order I Rule 10(2) and (3) R/w Section 151 of CPC seeking impleadment of proposed plaintiff No.2. The application is filed on 06.09.2025 when the matter was posted for evidence by the plaintiff on preliminary issue.

2. Sri. H.K. Advocate has filed vakalath on behalf of proposed plaintiff No.2 who is said to be the next friend of the plaintiff. It is submitted that the proposed plaintiff No.2 is a person of unsound mind. Though the impleadment of proposed plaintiff No.2 is sought, the application is accompanied by the plaintiff herself as she intend to act as a next friend of the proposed plaintiff No.2.

3. The applicant contended that she has instituted this suit for the relief of declaration of ownership; for cancellation of Regd. Sale Deed No.1176/2015-16 Dt. 16.11.2015; to declare the

Regd. Sale Deed No.449/2016-17 Dt. 15.06.2016 is not binding on her; and for other allied reliefs. The suit is in respect of land bearing Sy. No.193/1/B, measuring 1.01 acres, situated at Krishnanagar village, Sandur taluk.

4. It is submitted that the husband of the plaintiff i.e., proposed plaintiff No.2 is an unsound mind and is not capable of understanding the matters. He is being taken care by the plaintiff and her children. The proposed plaintiff No.2 is in the care and custody of the plaintiff. He being the disabled person he has got right to Mental Health Care and legal aid.

5. According to the plaintiff, one Rajashekar Naik who is the police officer is the son of defendant No.1. He advised the plaintiff to purchase the house. Believing his words, the plaintiff paid ₹8,00,000/- to the Rajashekar Naik for purchase of the house. It is alleged that the said Rajashekar Naik cautioned the plaintiff that she would lose the suit property, which is item No.2 in the plaint schedule of O.S. No.77/2015 on the file of this court.

During the pendency of the said suit, the said Rajashekar Naik made the plaintiff to alienate the suit land in favour of his father - defendant No.1 *herein* for a sum of ₹3,84,000/- *vide* Regd. Sale Deed No.1176/2015-16 Dt. 16.11.2015, but the purchaser did not pay the consideration amount. According to plaintiff, the defendant No.1 and his son Rajashekar Naik committed fraud on the plaintiff who are facing criminal and civil trial in C.C. No.897/2016, C.C. No. 899/2016, C.C. No.1286/2018, O.S. No. 96/2020 and O.S. No.77/2015. It is further submitted that the said Rajashekar Naik and defendant No.1 had taken the medical certificate of proposed plaintiff No.2, and as such the application could not be filed at earlier point of time. It is contended that the said Rajashekar Naik ought to have made reasonable and diligent inquiries in regard to the capacity of plaintiff and necessity to alienate the suit land belonging to plaintiff's husband (proposed plaintiff No.2). The proposed plaintiff No.2 is of unsound mind. His rights have to be protected. As such, the plaintiff sought to

implead her husband as proposed plaintiff No.2. On these grounds, the applicant prays to allow her application.

6. The defendant No.2 has filed objections refuting the entire contents of the application. It is submitted that the defendant No.2 has purchased the suit land from defendant No.1 for a valuable consideration. He is the owner and in possession of the suit land. The application filed by the plaintiff is not supported by medical records. Further, the application is not accompanied with another application seeking permission to appoint plaintiff as next friend of proposed plaintiff No.2. Without such application, the present application is not maintainable. On these grounds, he prays to dismiss the application.

7. Heard the learned counsel for the plaintiff and defendant No.2. Perused the records.

8. The following points would arise for my consideration.

1. Whether the proposed plaintiff No.2 is necessary party to adjudicate the matter in controversy?
 2. What order?
9. The answered to the above points are as under

Point No.1: In the Affirmative

Point No.2: In the Affirmative

Point No.3: As per final order for the following.

REASONS

10. **POINT NO.1:** This is a suit instituted by plaintiff against defendant No.1 and 2 for the relief of declaration of ownership; for cancellation of Regd. Sale Deed No.1176/2015-16 Dt. 16.11.2015; to declare the Regd. Sale Deed No.449/2016-17 Dt. 15.06.2016 is not binding on her; and for other allied reliefs, in respect of land bearing Sy. No.193/1/B, measuring 1.01 acres, situated at Krishnanagar village, Sandur taluk.

11. The defendant No.2 has appeared before the court and filed his written statement taking several grounds. Based on the materials, this court has framed 7 issues on 04.09.2021 and thereafter 2 additional issues on 31.08.2023. Since these two additional issues are treated as preliminary issue and touching upon the pecuniary jurisdiction of this court, the defendant No.2 examined himself as DW1 and relied upon Ex.D1 to Ex.D3. It is at this stage, the present application is filed.

12. The plaintiff contend that the proposed plaintiff No.2 is her husband who is of unsound mind and has disability of 75 % . She has filed documents to substantiate this fact. The Disability Certificate and Identity Card for Differently Abled Persons is issued in favour of proposed plaintiff No.2 which specify that he has 75% of disability and suffering from mental illness. The same is issued by the Directorate for the Empowerment of Differently Abled and Senior Citizens, Bengaluru. Even otherwise, whether he is suffering from mental illness has to be substantiated during the trial. The plaintiff intend to implead him while acting as his next

friend. It is true that the plaintiff has not filed supporting application seeking permission to act as a next friend of proposed plaintiff No.2. However, this stage will come only after deciding the present application.

13. On going through the plaint averments, the plaintiff has contended that the suit land bearing Sy. No.191/1/B, measuring 1.01 acres, situated at Krishnanagar village, Sandur taluk is the ancestral and joint family property of proposed plaintiff No.2. In a family partition, the suit property was supposed to have fallen on proposed plaintiff no.2 but due to his mental illness, the property was allotted to the plaintiff who is said to be the wife of proposed plaintiff No.2. Though the plaintiff has contended in her plaint that she is the absolute owner of the suit land but at the same time contended that her husband has interest in the suit land. She has alleged that the son of defendant no.1 has played fraud on her and instigated her to execute sale deed in favour of defendant No.1. Since the plaintiff contend that her husband – proposed plaintiff No.2 has interest in the suit land

and suit property was supposed to be allotted to proposed plaintiff No.2 in a partition, his interest has to be protected and it is only possible when the proposed plaintiff No.2 is impleaded in the present suit. His presence is very much necessary to adjudicate the matter in controversy. Without his presence, no proper adjudication is possible. If the application is not allowed it will lead to multiplicity of the proceedings. The applicant has made out grounds to implead proposed plaintiff no.2 as party to the suit. If he is impleaded, no harm will be caused to the defendants. Hence, this Court answers Point No. 1 in the **Affirmative**.

14. **POINT NO.2:-** In view of the above findings and discussions, I proceed to pass the following:-

ORDER

I.A.No.VI filed by the applicant / plaintiff
U/O.I Rule 10(2) and (3) R/w Sec.151 of
C.P.C. is hereby allowed.

The applicant is directed to carry out
necessary amendment in the plaint by bringing

proposed plaintiff No.2 on record, and file amended plaint.

(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 25th day of August 2026).

(Md. Shaiz Chouthai)
Civil Judge and J.M.F.C., Sandur.