

**IN THE COURT OF THE CIVIL JUDGE & JMFC.,
AT SANDUR.**

Present : Sri. Devaraddy B.A., LL.B, LL.M.
Civil Judge & JMFC., Sandur.

Dated this the 20th day of February, 2024

O.S. No. 211/2022

Plaintiffs : Kilari Bhupati and Another.

V/S

Defendant : Kilari Gowramma.

I.A. No. III

Applicants/ : Sanna Marappa.
Proposed defendant
No.2

(By Sri. G.M. Advocate)

- V/S -

Opponents/ : Kilari Bhupati and Another.
Plaintiffs

(By Sri. A.V.K. Advocate)

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ORDERS ON I.A. No. III

The applicant / proposed defendant No.2 filed this application under Order I Rule 10(2) R/w Sec. 151 of C.P.C. for seeking permission to implead him in the present suit.

2. The said application filed by accompanying affidavit and in the affidavit it is stated that plaintiffs have filed the suit against the defendant for the relief of partition and separate possession in respect of suit schedule property. Further stated that he has purchased the suit schedule property from the sons of Kilari Thippaga on 03.03.1983 through registered sale deed, since then he is in possession and enjoyment of the said property without anybodies interruption. The plaintiffs father by name Chittappa has got mutation of the said property in his name by creating documents and it was challenged by him before the Assistant Commissioner, Ballari in RA No. 11/2019. The Assistant Commissioner, Ballari, has passed the oder on 23.09.2022 and directed to approach the civil court. Further stated that as per the order passed by the Assistant Commissioner, Ballari, he has filed the suit against the plaintiff and defendant for the relief of declaration, permanent injunction and also to alter the

entries in the ROR before the Hon'ble Senior Civil Judge, Kudligi sitting at Sandur as per O.S. No. 8/2023, wherein the Hon'ble Court has passed the exparte temporary injunction order and restrained the defendants from alienating the suit schedule property in favour of third parties.

3. Further stated that recently he came to know that plaintiffs and defendant colluding with each other filed this suit for the relief of partition and separate possession without making him as party even though they know all material facts. Further stated that now the suit is posted for compromise on 11.02.2023. Further stated that he is necessary party in the present suit for adjudication of the suit, for which, he has filed this application to implead him in the present suit. Further stated that if the application is allowed no injustice will be caused other side. On the other hand, if the application is not allowed then he will be put great hardship and injustice. Hence

prays to allow the application.

4. The learned counsel for plaintiffs submits no objection on this application.

5. Heard hearing on IA No.III.

6. On the basis of above contention, the following points arise for my consideration;

1. Whether the application filed by the proposed defendant No.2 / applicant under Order I Rule 10(2) R/w Sec. 151 of C.P.C. is deserved to be allowed?

2. What order?

7. Based on the contents of the present application and materials available on the hand, the above points are answered as under;

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

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

REASONS**Point No.1 :**

8. The plaintiffs have filed the present suit against the defendant for the relief of partition and separate possession in respect of suit schedule property. Now the proposed defendant No.2 / applicant filed this application to implead him as party in the present suit as he is necessary party.

9. The learned counsel for proposed defendant No.2 submits that he has purchased the suit schedule property under registered sale deed and now he is in possession and enjoyment of the said property. Further submits that he is necessary party to adjudicate the matter in dispute between the parties with regard to said property. Further submits that if the application is not allowed then he will be put great hardship and injustice. If the application is allowed no injustice will be caused other side. Hence prays to allow the application.

10. As already stated above that the counsel for plaintiffs submits no objection on this application.

11. It is well settled that the court has power under Order 1 Rule 10 of C.P.C., to implead the parties in the suit if they are necessary parties to adjudicate the matter finally. On perusal of contents of the application and pleadings and also materials on hand it reveals that the proposed defendant No.2 is necessary parties to decide the matter finally and his presence also required for adjudicating the dispute in the suit finally. In the present suit, the presence of proposed defendant is necessary for effective and complete adjudication of the settlement of all the questions involved in the suit. Hence, it is just and necessary to permit the proposed defendant to implead him in the present suit for complete and effective adjudication upon questions involved in the suit and to avoid multiplicity proceedings of the case. Moreover, if the application is allowed no injustice will be caused other

side.

12. From going through contents of affidavit of the application and also materials available on the hand, this court has come to conclusion that the application filed by the proposed defendant No.2/ applicants is deserved to be allowed. Hence, Point No.1 is answered in the **Affirmative**.

Point No.2 :

13. In view of discussion of point No.1 this court proceed to pass the following;

ORDER

I.A. No. III filed by the proposed defendant No.2 / applicant under Order I Rule 10 (2) R/w Sec. 151 of C.P.C. is hereby allowed.

The proposed defendant No.2 is permitted to come on record as sought in the application.

The plaintiffs are permitted to
carried out amendment of cause title of
plaint.

No order as to costs.

[Dictated to the Stenographer, transcribed by him,
corrected by me and then pronounced in the open
court on this day of **20th day of February, 2024**]

(Devaraddy)

Civil Judge and J.M.F.C.,
Sandur.