

**IN THE COURT OF THE CIVIL JUDGE AND
J.M.F.C., SIRUGUPPA**

Present: Ashok R H
Civil Judge & J.M.F.C.,
Siruguppa.

Dated this the 29th day of October, 2025

O.S.No.68/2014

Plaintiff: K.Shivappa

Vs

Defendant: Kadlekai Lingappa and others

PARTIES TO I.A.No.XIV

Applicant/plaintiff: K.Shivappa

Vs

Opponent/Proposed defendants:

Kadlekai Lingappa and others

i.	Provision under which application is filed	Under Order 1 Rule 10(2) R/w Section 151 CPC
ii.	Relief sought for	Impleading defendant No.14
iii.	Date of filing of application	23.07.2025
iv.	Number of application	14
v.	Date of filing of objections	01.09.2025
vi.	Date of pronouncement of orders	29.10.2025
vii	Stage of the case	Cross examination of PW.1

ORDERS ON IA.No.XIV

The applicant/plaintiff has filed this application U/O. I Rule 10(2) R/W Sec.151 of C.P.C., seeking permission to implead one Smt.Shivamma W/o Eranna as defendant No.14 in the above suit.

2. In the accompanying affidavit, the plaintiff has stated that himself, defendant No.1 and 6 to 13 are constitute Hindu Undivided Joint family. The proposed defendant No.14 is also a legal heir of the grandfather and grandmother of the plaintiff. Hence, she is necessary party. The proposed defendant is sister of the plaintiff. Hence, it is prayed to allow the application.

3. The defendant No.3 has filed objections to IA denying the statements made in the affidavit. It is contended that the application is filed after lapse of several years to fill-up the lacuna and to drag the matter. The proposed defendant No.4 namely Smt.Shanthamma is neither the daughter of deceased Mahadevappa nor the sister of the plaintiff. In the genealogical tree produced by the plaintiff, the plaintiff and one Eramma are shown as son and daughter of Mahadevappa. On these grounds it is prayed to reject the application.

4. The proposed defendant No.14 has appeared before the court and has no objections to the IA.
5. Heard both sides. Perused the materials on record.
6. The points that arise for the consideration of this court are as under:

P O I N T S

1. Whether the proposed defendant No.14 is a proper and necessary party to the suit?
 2. What order?
7. The answers of this court to the above Points are as follows:
- Point No.1 : In the Affirmative
Point No.2 : As per final order
for the following;

R E A S O N S

8. **Point No.1:-** The plaintiff has filed this suit seeking the relief of partition and separate possession. The plaintiff has contended that his grandmother namely Gouramma had acquired the suit properties. She had two sons Mahadevappa and K.Lingappa. The father of the plaintiff by name Mahadevappa died and the mother of the plaintiff has also died. The plaintiff and defendant No.1 are the successors to estate of

Gouramma. The said Gouramma had mutated the property in the name of defendant No.1 leaving behind the name of the plaintiff. The suit property is the joint family property. The plaintiff has share the suit property. The defendant No.1 has sold the suit property to defendant No.2 and defendant No.2 has alienated the property to the defendant No.3.

9. The defendant No.3 to 5 have resisted the suit . Defendant No.,5 has filed the written statement. It is contended that the suit of the plaintiff is time barred. Gouramma was the absolute owner of the suit property and after her death the defendant No.1 had got mutated the suit property in his name to which the plaintiff had given his consent. The plaintiff has no right, title and interest over the suit property. The defendant No.2 to 5 are the bonafide purchasers of the suit properties. These being the pleadings, issues are framed, the case is posted for cross-examination of PW.1. At this stage, instant application is filed.

10. Order 1 Rule 10 CPC deals with impleadment of parties. The court has powers to add a proper and necessary party to the suit. A necessary party is one without whom no order can be made effectively and the proper party is one whose presence is necessary for a

complete and final decision of the question involved in the proceeding.

11. Tests to be applied for determining right of party to implead another in pending suit or proceeding would largely be (a) no effective and complete adjudication can be made in absence of such party even if no relief is claimed against him (b) when there is cause of action against party proposed to be impleaded (c) when relief sought in suit or other proceedings is likely to be made binding on proposed party (d) when proposed party is likely to be affected adversely by ultimate outcome of such proceeding.

12. In **Kasturi V/s Uyyamperumal and others reported 1 Rule 10 in (2005) 6 SCC 733**, the Hon'ble Apex Court has observed that "it is now clear that two tests are to be satisfied for determining the question as to who who is a necessary party. Tests are -(1) there must be a right to relief against such party in respect of the controversies involved in the proceedings (2) no effective decree can be passed in the absence of such party."

13. Applying the above said tests, the instant suit is for partition and separate possession. The application is filed by the plaintiff himself who is the dominus litus. The implead applicant has no objections to the

application. The defendant No.3 has resisted the application on the ground it is time barred and as per the genealogy produced by the plaintiff, the proposed defendant is not a necessary party. However, the plaintiff has stated that the proposed defendant No.14 is his sister and that she is also a legal heir of his father. In a suit for partition, all the Co-sharers are necessary party. When the plaintiff himself states that the proposed defendant No.14 is a joint family member, it is proper to allow the application. The contention of the defendant No.3 that the proposed defendant is not at all related to the plaintiff is a matter of trial. It appears that the proposed defendant is a proper and necessary party. Allowing the application would avoid multiplicity of proceedings. Hence, this court answered Point No.1 in the Affirmative.

14. **Point No.2:-** For the reasons stated above, this court proceeds to pass the following;

ORDER

I.A.No.XIV filed by the plaintiff under Order I Rule 10 (2) r/w Sec 151 of CPC is hereby allowed.

Smt.Shanthamma W/o Eranna as
shown in the IA is ordered to be added as
defendant No.14 in this case.

(Dictated to the stenographer, transcribed and typed by
him, corrected and then pronounced by me in the Open Court
on this 29th day of October-2024).

(Ashok R H)
Civil Judge and JMFC,
Siruguppa.