

ORDER ON I.A. No.V

1. The instant application has been filed by the proposed respondent no.11 to 13 under Order I Rule 10(2) of the Code of Civil Procedure seeking to implead them in the petition.
2. The learned Counsel for the petitioners has filed the objections to the said application.
3. I have heard the learned Counsel for the proposed respondent no.11 to 13 and the learned Counsel for the plaintiffs.
4. After perusal of the records of the case, the following point would emerge for my consideration:

1. Whether the proposed respondent no.11 to 13 are the proper and necessary parties?

2. To what order?

5. My findings to the above points are as under:

Point No.1: In the Affirmative

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

REASONS

6 **Point No.1:** In an affidavit appended to the application, it is stated by the proposed respondent no.11 that the respondent no.8 is the husband of her and the respondent no.8 has left the house on 18/08/2018 for which she has filed the complaint in the police station and the respondent no.8 has not appeared before the Court and in the absence of him the petitioners are in hurry to take the order and they are the necessary parties to the petition and this petition cannot be decided in the absence of them and as such, the

presence of the proposed respondent no.11 to 13 is very much necessary for the just adjudication of the case and she prays to allow the application.

7. The learned Counsel for the petitioners has denied the application averments and he has admitted that the proposed respondent no.11 to 13 are getting the share which will allot to the respondent no.8 and he has contended that the proposed respondent no.11 to 13 are not the necessary parties to the petition and accordingly, among other grounds he prays to reject the application.

8. In view of rival contentions put forth by the learned Counsel for the proposed respondent no.11 to 13 and the petitioners, now, let me see as to whether the presence of proposed respondent no.11 to 13 is necessary for the just adjudication of the case. It is pertinent to note that the petitioners have admitted that the proposed respondent no.11 to 13 are the wife and children of the respondent no.8 and they are getting the share of the respondent no.8. Hence, the proposed respondent no.11 to 13 are the necessary parties to the petition. Further, it is pertinent note that if this application is not allowed, the proposed respondent no.11 to 13 will be put to untold hardship and which cannot be compensated in terms of money and on the other hand, the petitioners will not be put to any hardship. Therefore, the presence of proposed respondent no.11 to 13 is necessary for the just adjudication of the case. Accordingly, I answer this point in the Affirmative.

9. **Point No.2:** In view of my discussion made supra, I proceed to pass the following:

ORDER

I.A.No.V filed by the proposed respondent no.11 to 13 under Order I Rule 10 of Code of Civil Procedure is hereby allowed.

The petitioners are directed to amend the petition and furnish the amended petition.

(Hanamantarao R.Kulkarni)
Senior Civil Judge and JMFC.,
Hunagund.