

**ORDER ON IA NO.VII**

The plaintiffs have filed this application U/Sec.151 of CPC seeking to issue direction to defendant No.1 to furnish full address of one named Vijayakala and another named Laxmi who are his sisters and necessary parties for adjudication of this case.

It is submitted that, in their written statement defendants have taken contention that, sisters of defendant No.1 is not made party in this suit and hence suffers from non-joinder of necessary parties. But, prior to the marriage of plaintiff No.1 with defendant No.1 the above said sisters of defendant No.1 were married off and plaintiffs do not know their place of residence. Hence, on these grounds seeking direction against defendant No.1 to furnish their full address. If the application is allowed, no injury would be caused to the other side. On the other hand, if the application is not allowed, plaintiffs will suffer irreparable loss and injury. Hence, prayed to allow the application.

2. On the other hand, learned counsel for defendants have filed objections contending that, defendants do not know the proper address of the

sisters of defendant No.1. Further, plaintiffs themselves have shown the names of above said sisters of defendant No.1. Hence, they have to take proper steps for the service of summons to both of them as per the provision of CPC.

3. Heard both sides and perused the materials on record.

4. The plaintiffs have filed this suit for partition and separate possession of their 1/15<sup>th</sup> share against defendants in the suit schedule properties. It is contended that, plaintiff No.1 is married to defendant No.1 and plaintiff No.2 and defendant No.2 & 3 are their children. Defendant No.2 & 3 reside with defendant No.1 and plaintiff No.2 reside with plaintiff No.1. The suit schedule properties are the ancestral properties of plaintiffs and defendants. Partition is not effected till the date of filing of the suit and both the parties to the suit are in joint possession and enjoyment of suit schedule properties. The defendants filed written statement contending that, the two sisters of defendant No.1 named Vijayakala and Laxmi are not made as party to this suit and the suit suffers from non-joinder of necessary party and hence, the plaintiffs have filed this application seeking direction against defendant No.1 to furnish full address of the above-mentioned sisters of defendant No.1.

5. Admittedly, the suit is for partition and separate possession and there is no dispute regarding the relationship between plaintiffs and defendant No.1. The defendants themselves have taken contentions that, two of the sisters of defendant No.1 are not included in the suit filed by plaintiffs seeking the relief of partition and separate possession. When the plaintiffs have taken contentions that, prior to the marriage of plaintiff No.1 with defendant No.1, the above-mentioned sisters of defendant No.1 were married off and she does not know about the address of those sisters, it is the duty of defendant No.1 to furnish their address for proper adjudication of this case on merits. The contentions regarding whether the properties are ancestral properties or not and the contention regarding whether the suit properties are liable for partition or not will be adjudicated after full-fledged trial. At this juncture, it is necessary for the defendants to furnish the address of the above said persons named in the application. Therefore, it is necessary to direct defendant No.1 to furnish their address. Further, if defendant No.1 does not furnish the address as stated above, plaintiffs are at liberty to proceed with the case for issuance of summons to the above said persons as per the provision of CPC for issuance of summons to them. Accordingly, I proceed to pass the following:

**: ORDER :**

I.A. No.7 filed by plaintiffs U/Sec.151 of CPC is hereby disposed off.

Defendant No.1 is directed to furnish the address of his sisters named Vijayakala and Laxmi. Otherwise, plaintiffs are at liberty to proceed as per law for issuance of summons.

**Sd/-**

Civil Judge & JMFC, Banahatti.