

KABK700001082008



FDP/11/2008

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FDP/14/2008

**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE & JMFC,
AT JAMKHANDI.**

Present: Smt. Kavita. S. Undodi.

B.A. LL.B(Spl)

Prl. Senior Civil Judge & JMFC, Jamkhandi.

FDP.NO.11 OF 2008 AND FDP.No.14/2008.

Dated this the 28th day of April-2025

FDP.No.11/2008

PETITIONERS:

- 1) Smt. Dhondubai Pandu Bhoraganvkar
& another one.

/Versus/

RESPONDENTS:

- 1) Hariba S/o Pandu Bhoraganvar
& others...

Parties to the I.A.No.9

APPLICANT/PROPOSED RESPONDENT No.6

- 1) Smt. Shobha W/o Hariba @ Babu Bhoraganvkar
Age: 46 years, Occ: Household work,
R/o: Kannolli, Tq; Jamkhandi.

/Versus/

OPPONENTS/PETITIONERS

- 1) Smt. Dhondubai Pandu Bhoraganvkar
& another one.

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FDP.No.14/2008

PETITIONERS:

- 1) Smt. Shobha W/o Hariba Bhoraganvkar
& another one.

/Versus/

RESPONDENTS:

- 1) Dhodubai W/o Pandu Bhoraganvkar
& others.

Parties to the I.A.No.6

APPLICANT/PROPOSED RESPONDENT No.4

- 1) Smt. Shobha W/o Hariba @ Babu Bhoraganvkar
Age: 46 years, Occ: Household work,
R/o: Kannolli, Tq; Jamkhandi.

/Versus/

OPPONENT/PETITIONERS

- 1) Smt. Shobha W/o Hariba Bhoraganvkar
& another one.

1	Provision under which the application is filed	:	under order 1 Rule 10(2) R/w 151 of CPC
2	Relief sought for	:	<u>I.A.No.9 in FDP.No.11-2008</u> :- To implead the opponent as a respondent No.6 <u>I.A.No.6 in FDP.No.14-2008</u> :- To implead the opponent as a respondent No.4.
3	The date on which the application is filed	:	<u>I.A.No.9</u> on 10-07-2023 <u>I.A.No.6</u> on 10-07-2023.
4	Number of the	:	I.A.No.9 and I.A.No.6.

	applications		
5	The date on which the objections are filed by different opponents	:	I.A.No.6 in FDP.No.14-2008 on 16-08-2023
6	The date on which the orders were passed on the said application	:	28-04-2025.

COMMON ORDERS ON I.A'S DATED 10-07-2023

The applicant in FDP.No.11/2008 filed this application under Order 1 Rule 10(2) R/w 151 of CPC to implead her as respondent No.6 in this case.

The applicant in FD.No.14/2008 filed this application under Order 1 Rule 10(2) R/w 151 of CPC to implead her as respondent No.4 in this case.

2. The applicant has sworn to an affidavits stating that she is legally wedded wife of deceased Hariba @ Babu and their marriage was solemnized with deceased Hariba in the year-2001 at Danamma Devi Temple Guddapur as per their custom. The petitioner No.1 in FDP.No.11/2008 is her mother-in-law and petitioner No.2 is sister of her husband and they are respondent No.1 and 3 in FDP.No.14/2008 respectively. The respondent No.2 in FDP.No.11/2008 and petitioner No.1 in FDP.No.14/2008 is claiming as wife of deceased Hariba @ Babu S/o Pandu Bhoraganveker is false. Her husband Hariba @ Babu has filed divorce petition against respondent No.2 in MC.No.9/1996. The said MC.No.9/1996 disposed on 20-08-1998 and marriage has been dissolved.

Thereafter in the year-2001 Hariba married her at Danamma Devi Temple at Guddapur. The said marriage is solemnized as per their customs, therefore she is only legally wedded wife of Hariba, but the respondent suppressed the facts and got decree in O.S.No.152/1996 and the said case is disposed on 25-10-2005. In that case Shoba and minor son Pandurang are the plaintiffs, then colluding decree has been obtained, but at that time her status was divorced wife, therefore she is not entitled to any share in the suit schedule properties as a legal wedded wife of deceased Hariba. Therefore she is necessary party to this proceedings and prayed to allow the applications.

3. The petitioner in FDP.No.14/2008 has opposed the application by filing written objections and stated that the application is not maintainable. The applicant has filed this application at the instigation of defendants in O.S.No.152/1996 with an intention to dupe the legitimate share of petitioners upon suit schedule properties. The MC.No.9/1996 disposed off on 17-12-2007, the Hariba who has filed MC.No.9/1996 and got ex-parte divorce decree on 20-08-1998 and after knowing this fact the present petitioner No.1 challenged the Ex-parte order in MC.No.9/1996 before Hon'ble High court of Karnataka in MFA.No.4652/1998 and same has been allowed on 23-11-2000. In view of order passed in MFA.No.4652/1998 the original proceedings in MC.No.9/1996 reopened and thereafter the present petitioner engaged another counsel and after trial the petition came to be allowed. On the same day the court has disposed off the suit in

O.S.No.152/1996 filed by the present petitioner and allotted share in suit schedule property.

4. Further averred in the objections that, the marriage of present petitioner No.1 dissolved with deceased Hariba on 17-12-2007 so it seems the marriage of the present applicant with deceased Hariba is illegal and void under Hindu Marriage Act. The marriage of applicant taken place in the year-2001 i.e., when the marriage of petitioner No.1 was in existence, hence these applications are not maintainable and prayed to reject the applications.

The petitioner nor respondents have filed objections to I.A.No.9 of FDP.No.11/2008.

5. Heard on I.A.

6. The following points arises for my consideration.

1) **Whether applicant is necessary and proper party to the FDP proceedings as sought in the I.A's ?**

2) **What order?**

7. My answer to the above points is as under:

Point No.1 – In the **Affirmative**

Point No.2 – Is as per the final order for the following;

:: REASONS ::

8. **Point No.1**:- The petitioners have filed petition for drawing up of final decree. When the case was posted for await commissioner report, at that

time the applicant has filed applications in both the cases impleading her as respondent No.6 in FDP.No.11/2008 and respondent No.4 in FDP.No.14/2008. In the affidavit she has stated that she is legally wedded wife of deceased Hariba @ Babu and their marriage was solemnized in the year-2001 at Dannamma Devi Temple Guddapur as per their custom. The respondent No.2 in FDP.No.11/2008 is claiming as wife of Hariba @ Babu. The said Hariba has filed MC.No.9/1996 for seeking divorce and said case came to be disposed off on 20-08-1998 and got decree of divorce. Thereafter Hariba @ Babu married her i.e., present applicant. Therefore she being the wife of Hariba is necessary party to the proceedings.

The petitioner in FDP.No.14/2008 stated in the objections that the MC.No.9/1996 came to be disposed on 17-12-2007 and on the same day the suit filed by her in O.S.No.152/1996 came to be disposed off. When the applicant married Hariba at that time first marriage was in existence. The applicant is stated that her marriage with Hariba taken place in the year-2001 and she is necessary party to the proceedings.

9. The learned counsel for the applicant relied upon decision reported in; ***2008 (5) KCCR page-3612*** it is held that- ***Order 1 Rule 10- Impleading- Woman claiming to be the widow of one of parties in partition proceedings in FDP- Trial court dismissed the I.A. The Hon'ble High Court of Karnataka set aside the orders passed by the trial court and application for impleading is granted and***

applicant/petitioner shall come on record as supplemental respondent in the final decree proceedings.

10. The final decree proceedings is in continuation of original proceedings and there is no any impediment in granting the said application. The applicant is claiming as the wife of Hariba. At this stage the applicant is not necessary to prove the fact that she is wife of deceased Hariba and that the property in question is joint family property. It is required to be considered after due enquiry. Hence, looking to the facts and circumstances of the case, if the applications are allowed and the applicant is impeded as respondent No.6 in FDP.No.11/2008 and respondent No.4 in FDP.No.14/2008. Therefore, looking to the facts and circumstances of the case, the present applicant is proper and necessary party to the proceedings. Hence, if the I.A's are allowed it will meet the ends of justice, accordingly, point No.1 answered in **Affirmative**.

11. Point No.2: In view of the above discussion, I proceed to pass the following;

ORDER

I.A.No.9 filed by the applicant in FDP.No.11/2008 under Order 1 Rule 10(2) R/w 151 of CPC and I.A.No.6 filed by the applicant in FDP.No.14/2008 under Order 1 Rule 10(2) R/w 151 of C.P.C are hereby allowed.

**The applicant is impleaded as
respondent No.6 in FDP.No.11/2008 and
respondent No.4 in FDP.No.14/2008.**

**(Directly dictated to Stenographer on Lap-tap, print out taken by her,
corrected and then pronounced by me in Open-Court this the 28th day of
April-2025)**

Sd/-

**(Smt. Kavita S. Undodi)
Prl. Senior Civil Judge &
JMFC, Jamkhandi.**