

ORDER ON IA.No.II

i.	Provision under which the application is filed	:	IA.No.II U/o.I Rule 10(2) R/w Sec.151 of CPC
ii.	Relief sought for	:	To implead the proposed party as defendant No.2.
iii.	The date on which the applications are filed	:	08.01.2026
iv.	Number of the applications	:	I.A.No.II
v.	The date on which the objection is filed by different opponents	:	The plaintiff filed objection to above application on 17.01.2026.
vi.	The date on which the order was passed on the said application	:	21.02.2026.

1. The proposed party by name Shri.Hanamant S/o. Dundappa Byakod, Age: 72 years, R/o: Chinagundi village of Jamkhandi Taluk has filed IA.No.II U/o.I Rule 10(2) R/w Sec.151 of CPC with a prayer to implead him as defendant No.2 herein this suit.

2. In support of above application, the applicant has sworn to an affidavit, wherein he mainly stated that, the present defendant had executed the registered agreement of sale dated 11.08.2025 in his favour agreeing to sell the suit schedule property bearing R.S.No.72/1A measuring 02 acres 00 gunta out of 07 acres 30 gunta situated at Chinagundi village of Jamkhandi Taluk for consideration amount of Rs.8,00,000/- (Rupees Eight Lakhs

only) by receiving a sum of Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only) as part sale consideration amount. The plaintiffs were well aware of the aforesaid agreement of sale. Despite they have instituted this suit without arraying him as party herein. In view of above facts & circumstances, he is necessary party to the suit. With this he prayed to allow above application.

3. On the contrary, counsel for the plaintiff has filed objection to above application. He has denied almost all the contents of application. He has specifically contended that, defendant No.1 and the proposed defendant have created a bogus agreement of sale with intent to deceive the plaintiffs. Hence the above application may be dismissed with heavy costs.

4. Both the counsels have failed to canvass their arguments despite giving time & opportunities. Hence their argument on application is taken as nil. Perused application, objection and all other materials on record. Upon going through the same, the points that would arise for consideration are as under;

POINTS

1. Whether the proposed party is a necessary or proper party to this suit ?
 2. What order ?
5. This court answers to above points as under:

Point No.1 : In partly affirmative.

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

REASONS

6. Point No.1 : The plaintiffs have filed this suit for the relief of partition & separate possession claiming their 3/4th share in the suit schedule property. It is specific case of the plaintiffs that, defendant No.1 is husband of plaintiff No.1 and father of plaintiffs No.2 & 3. The plaintiffs & defendants are the members of Hindu Undivided family. The suit schedule property is their joint family property. No partition or division was effected in the suit schedule property amongst them. Such being the state of affairs, defendant is illegally attempting to alienate the suit schedule property. Hence the plaintiffs are constrained to file this suit.

7. Perused all the documents placed on record. The RTC of the suit schedule property for the year-2025-26 discloses that,

defendant has got the suit schedule property in family properties partition vide M.R.No.187/2010-11 dated 20.01.2021. The photo copy of registered agreement of sale dated 11.08.2025 discloses that, defendant has agreed to sell a portion of suit schedule property viz., R.S No.72/1A measuring 02 acres 00 gunta out of 07 acres 30 gunta situated at Chinagundi village of Jamkhandi Taluk in favour of the applicant. As the plaintiffs have filed this suit for the relief of partition & separate possession, the applicant is not necessary party to the suit. The suit can be decided effectively & completely even in the absence of the applicant. As the defendant executed a registered agreement of sale with respect to a portion of suit schedule property stated supra, this court is of opinion that, the applicant is a proper party to the proceedings. In view of above discussion, point No.1 is answered in partly affirmative.

8. Point No.2: In view of above findings, the court proceeds to pass the following:

ORDER

I.A.No.II filed U/o.I Rule 10(2) R/w
Sec.151 of CPC by the
applicant/proposed defendant is hereby
allowed.

The plaintiffs shall array the applicant as proper party to the suit and furnish amended plaint.

No order as to costs.

**Pr1. Senior Civil Judge & JMFC,
Jamkhandi.**