

**KABK710000452019**



**O.S./3/2019**  
{CASE\_CAUSE\_TITLE}

**IN THE COURT OF PRINCIPAL CIVIL JUDGE &  
JMFC, JAMKHANDI, AT: JAMKHANDI.**

**PRESENT :**

**SRI ABDUL RAHIMAN. A. MULLA**  
*B.A.L, LL.B. (Hons.)*  
**Prl. Civil Judge & JMFC,**  
**Jamkhandi.**

**Dated this 03<sup>rd</sup> day of January - 2022**

**O. S. No.3/2019**

1. Timmappa S/o Adivappa Biradar,  
Age: 84 years, Occ: Agriculture,  
R/o Albal, Tq: Jamkhandi, Dist: Bagalkot.

**..... Plaintiff.**

(By Sri.R.R.K., Advocate)

**V/s.**

1. The State of Karnataka,  
Represented by Deputy Commissioner,  
Bagalkot.
2. Panchayat Development Officer,  
Gram Panchayt, Muttur,  
Tq: Jamkhandi, Dist: Bagalkot.

3. Mahadevi W/o Shankar Biradar,  
Age: 56 years, Occ: Household work,  
R/o Albal, Tq: Jamkhandi, Dist: Bagalkot.
4. Anand S/o Shankar Biradar,  
Age: 35 years, Occ: Agriculture,  
R/o Albal, Tq: Jamkhandi, Dist: Bagalkot.
5. Nagaraj S/o Shankar Biradar,  
Age: 31 years, Occ: Agriculture,  
R/o Albal, Tq: Jamkhandi, Dist: Bagalkot.
6. Mahadev S/o Malkappa Biradar,  
Age: 61 years, Occ: Agriculture,  
R/o Albal, Tq: Jamkhandi, Dist: Bagalkot.
7. Durgappa S/o Hanamant Mang @ Madar,  
Age: 50 years, Occ: Coolie,  
R/o Albal, Tq: Jamkhandi, Dist: Bagalkot.
8. Smt.Satyawwa W/o Ramachandra Kamble,  
Age: 52 years, Occ: Household work,  
R/o Albal, Tq: Jamkhandi, Dist: Bagalkot.

**..... Defendants.**

- (D-1 – By Sri.A.G.G., Advocate)  
(D-2 – By Sri.S.P.D., Advocate)  
(D-3 to D-7 – By Sri.C.S.B., Advocate)  
(D-8 - Exparte)

**I. A. No.V**

1. Timmappa S/o Adivappa Biradar,

**..... Applicant/Plaintiff.**

**V/s.**

1. Putalawwa W/o Hanamant Mang @ Madar,  
Age: 64 years, Occ: Coolie,

2. Sadashivu S/o Hanamant Mang @ Madar,  
Age: 45 years, Occ: Coolie,
3. Nagalinga S/o Indrawwa Mang @ Madar,  
Age: 19 years, Occ: Coolie,
4. Sangappa S/o Hanamant Mang @ Madar,  
Age: 45 years, Occ: Coolie,
5. Shankar S/o Hanamant Mang @ Madar,  
Age: 38 years, Occ: Coolie,

All are R/o Albal,  
Tq: Jamkhandi, Dist: Bagalkot.

**.....Opponents/Proposed Defendant No.9 to 13.**

**ORDERS ON I.A. No.V FILED BY PLAINTIFF**  
**UNDER ORDER 1 RULE 10 (2) OF C.P.C**

This is an application filed by plaintiff praying this court to implead the opponents as defendant No.9 to 13 in this case.

2. In the affidavit annexed to the application, plaintiff averred that he has filed this suit against defendants for the relief of declaration that he is absolute owner in possession of suit property and for mandatory injunction against defendant No.1 and 2 to prepare panchayat record in his name and for mandatory injunction against defendant No.7 and 8 to

remove the illegal constructions raised by them in suit schedule property and to hand over the possession. That the proposed opponents are relatives of defendant No.7 and they are residing next to suit schedule property and now they are obstructing peaceful possession and enjoyment of plaintiff over suit schedule property. Hence they are necessary parties for complete adjudication of the matter and amongst these grounds, prayed to allow the application.

3. After issuance of notice on said application, opponents appeared through their counsel and filed their objections to the application contending that plaintiff is not the owner in actual possession of suit schedule property, whereas defendant No.7 and his family members are owners in actual possession of suit schedule property since time immemorial. They are neither necessary nor proper parties to this suit and only to harass them, present application is filed and amongst these grounds, prayed to reject the application with costs.

4. Heard, perused the records.

5. The points that arise for my consideration is as under :

1. Whether plaintiff has made out sufficient grounds to allow the application ?

2. What order ?

6. My findings to the above points is as under:

**Point No.1:-** In the Affirmative

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

### **REASONS**

7. **POINT No.1:** Admittedly present suit is filed plaintiff against defendants for the relief of declaration and mandatory injunction and now when the case is posted for plaintiff's evidence, present application is filed by plaintiff contending that opponents are interfering with his possession over suit schedule property and they are residing adjoining to the suit schedule property and they are relatives of defendant No.7. On the contrary, opponents contended

that defendant No.7 and his family members are in possession of suit schedule property.

8. On perusal of records, it appears that opponents have not taken any ground in their objections as to how they are not necessary parties to the present suit and all the while, they stated that defendant No.7 and his family members are owners in possession of suit schedule property. Be that as it may, it is pertinent to note that defendant No.7 in his written statement specifically contended that he and his family members are in possession of suit schedule property and the opponents are none other than wife and children of defendant No.7. Hence plaintiff might have filed the present application to implead the opponents as defendant No.9 to 13 in this suit.

9. If at all the proposed opponents are impleaded as defendant No.9 to 13 in this case, no loss or injustice would be caused to defendants and it would aid the court in proper adjudication of the matter. The presence of opponents as defendant No.9

to 13 in this case would aid the court in effectively adjudicating the matter in hand. Sufficient grounds have been made out by plaintiff to allow the application. Hence for the above said reasons, I answer point No.1 in the 'Affirmative'.

10. **POINT No.2:** For the reasonings given above to point No.1, I proceed to pass the following:

**: O R D E R :**

I.A. No.V filed by plaintiff under Order 1 Rule 10(2) of C.P.C is hereby allowed.

The opponents are hereby impleaded as defendant No.9 to 13 in this case.

*(Dictated to the Stenographer directly on computer and typed by him, and corrected, printout taken, signed by me and then pronounced in the open court on this the 03<sup>rd</sup> day of January - 2022)*

Sd/-

**(Abdul Rahiman A. Mulla)**

Prl. Civil Judge & JMFC,  
Jamkhandi.