

**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL  
JUDGE & J.M.F.C., AT DEVANAHALLI.**

**PRESENT**

**Sri. PATIL HARISH RANGANAGOWDA,  
B.A., LL.B.(Hon's)**

**Addl. Senior Civil Judge & J.M.F.C.  
Devanahalli.**

**Dated this day of 14<sup>th</sup> September, 2022.**

**O.S.No.1536/2006**

Sri. Eranna & Others

: **Plaintiffs**

(Plts. - By Sri. K.N.S.,  
Advocate)

- **V/s.** -

Smt. Pillamma & Others

: **Defendants**

(D1 to 4 & 6 - By Sri.  
P.T.H., Advocate)  
(D5(a & b) & 9 -  
Absent)  
(D7 & 8 - By Sri. S.G.P.,  
Advocate)  
(D10 - By Sri. M.M.  
Advocate)

Smt. Muniyamma & Others

: **Applicants**

(Aplts. - By Sri. R.V.,  
Advocate)

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**ORDER ON I.A. FILED BY 3<sup>RD</sup> PARTY APPLICANTS**  
**UNDER ORDER 1 RULE 10(2) OF C.P.C.**

The present application is filed at the stage of bringing legal heirs of defendants. The further cross examination of PW1 was stalled since 2013 and parties are spending time in bringing the legal heirs.

2. The present I.A. No.15/2022 has been filed by one M. Rajanna and others under order 1 Rule 10(2) of C.P.C. seeking to implead them as defendants No.11 to 21 to the suit on the ground that, property bearing Sy.No.22 measuring to an extent of 6 acre 3 guntas and property bearing Sy.No.29 measuring to an extent of 1 acre 32 gunta belongs to their ancestor Munishamappa S/o Nanjappa. The said Munishamappa S/o Nanjappa was in actual possession and enjoyment of said properties till his last breath. Accordingly the revenue records carried his name. Thereafter they succeeded the said properties from said Munishamappa S/o Nanjappa. They paid tax to the said properties. The plaintiffs have included the said properties at item No.2 and 3 to the "D" schedule. They further contended that they recently obtained R.T.C. and came to know about the pendency of present suit. They executed Power of Attorney in favour of applicant No.1 asking him to look after the said issue. He filed application under order 1 Rule 10(2) of C.P.C.

in the earlier occasion. Since one of the executant of power of attorney was dead the said application was got withdrawn. Now they filed this application seeking to implead them as parties to the suit. The plaintiff and defendants No.1 to 6 & 10 objected the said application by contending that these applicants have no right to interfere in the on going litigation between them. According to them the said suit item No.2 and 3 of "D" schedule property belongs to their family. The applicants have no right over the said properties. Hence they seek to reject the application. Heard both the sides. Counsel for applicant and defendant No.9 furnished documents. Perused the same.

**3. Having heard and having perused the same the following point would arise for my consideration :**

1. Whether the applicants made out ground to implead them as defendants No.11 to 21 to the suit?
2. What order?

**4. Having heard and having perused the material on record my findings to above points is as under :**

- Point No.1 : **In the Negative,**
- Point No.2 : **As per final Order  
for the following :**

### **REASONS**

5. **Points No.1** : Admittedly the present suit is filed by one Eramma and others against defendants No.1 to 10 seeking for the relief of Partition and Separate Possession of their share over suit properties. They in all mentioned 29 properties to the claim of partition. According to them one Nanjappa was the original propositus who had two sons namely Munishamappa and Chikkamunishamappa. The said Munishamappa has a son by name M. Munishamappa through his first wife Byamma. He has another son by name M. Ramaiah through his second wife Muninarasamma. The said Munishamappa got two sons by name Narayanaswamy and Srinivas. The said B.M. Narayanaswamy has two sons namely Manjunath and Muniswamy Reddy. The said M. Ramaiah had one son by name Shivakumar. Therefore they constitute Hindu undivided joint family and suit properties are joint family properties of themselves and defendants.

6. The present application is filed by applicants at the stage of further cross examination of PW1. The claim of applicants is under one Munishamappa S/o Nanjappa. According to them, the said suit properties are standing in the name of said Munishamappa S/o Nanjappa. They succeeded the property and are in possession. The applicants have produced copy of Genealogical Tree, Voter list and Record of Right. The Record of Right pertains to said property is standing in the name of said Munishamappa S/o Nanjappa. The question before court is as to whether the said Munishamappa S/o Nanjappa is the family member of parties to the suit or the family member of applicants. The applicants have not produced Tax paid receipts to show that the Lineal decedents of said Munishamappa S/o Nanjappa have paid tax to the said property. The Record of Right produced by the plaintiff pertains to said property is also standing in the name of said Munishamappa S/o Nanjappa. The plaintiffs claimed that the said Munishamappa S/o Nanjappa is their ancestor. The Genealogical Tree produced by defendant indicates that one Eregowda was the original propositus of joint family. The said Genealogical Tree indicates that the said Eregowda and his wife Muniyamma had three sons and one daughter namely Huliyappa, Chikkahanumantharayappa, Bachegowda & Chikammani. The said Genealogical Tree indicates the details of the family members of said sons of Eregowda. The said Genealogical Tree indicates in all about more than 04 generation. The said Genealogical Tree did not indicate the name of Munishamappa S/o Nanjappa. The plaintiffs have produced Genealogical Tree in their evidence at Ex.P30. The said

Genealogical Tree indicates the name of Munishamappa S/o Nanjappa. The said Genealogical Tree indicates that one Nanjappa was the original propositus of joint family and he had two sons namely Munishamappa & Chikkamunishamappa. The said Munishamappa had two wives namely Byamma & Muninarasamma. The said Byamma had a son by name M. Munishamappa. The said Muninarasamma had a son by name M. Ramaiah. The said Chikkamunishamappa had three sons namely Eranna, Doddananjundappa & Chikkananjappa who are plaintiffs in suit bearing O.S.No.1536/2006. The plaintiffs have produced Tax paid receipts said property said to have been paid by the said Munishamappa. On the contrary the applicants have not produced the said tax paid receipts. They could have produced Katha, Patta Book & any other revenue document held by their ancestors in regard to said properties. Except the Genealogical Tree, Record of Right & Encumbrance Certificate they have not produced document to show that the said Munishamappa S/o Nanjappa belongs to their family.

7. Interestingly one of the family member of applicant by name Kamamma W/o Subbarayappa has filed suit bearing O.S.No.579/2015 seeking for the relief of Declaration of title over suit property bearing Sy.No.22. She made the plaintiff and other defendants as parties to the suit. The said suit came to be dismissed as abated in the year 2017 itself. Therefore applicants have not made out any ground to implead in the present suit. The defendants have also produced old R.R. & I.L. which would indicate the name of Chikkamunishamappa S/o Hanumanth. They also produced very same Voter list with tallies to the

Genealogical Tree shown in the Ex.P30. Therefore the applicants have no right to interfere in ongoing litigation between 03 branches of alleged propositus. **Therefore reserving liberty to the applicants to independently redress their alleged grievance over said property, I hold above point in the Negative.**

8. **Point No.2** : In the light of aforesaid finding on the above said point, I proceed to pass the following :

### **ORDER**

The application filed by applicants under order 1 Rule 10(2) of C.P.C is hereby rejected.

**Call on : 17-10-2022 for further cross of PW1.**

(Dictated to the Typist directly on computer, same is corrected and then pronounced by me in the open court on this the 14<sup>th</sup> day of September, 2022).

**(PATIL HARISH RANGANAGOWDA)  
Addl. Senior Civil Judge & J.M.F.C.,  
Devanahalli.**