

KABR310001372025



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

PRESENT

SRI. PRAVEEN NAYAK, LLM.,

Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

Dated this day of 20th January, 2026

O.S.No.99/2025

BETWEEN:

Sri. Srinivas. K : **Plaintiffs**
S/o Late Krishnappa and another
(Plt. - By Sri.S.V.S.,Advocate)

AND:

Mr. Peter Rajesh Joachim : **Defendant**
S/o Savari Muthu Joachim
(Dft - By Sri.R.M.,Advocate)

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i	Provision under which the application is filed	under Order 1 Rule 10(1) R/w.Section 151 of C.P.C.
ii	Relief sought for	Implead one Sri.



		Kemparaju B.K as defendant No.2
iii	The date on which the application is filed	29-07-2025
iv	Number of the application	I.A.No.III
v	Date of filing objection	29-11-2025
vi	Date of Pronouncement of Order	20-01-2026

Sd/-

(PRAVEEN NAYAK)

Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

ORDER ON I.A.No.III

The instant application has been filed by the counsel for defendant under Order 1 Rule 10(1) R/w. Section 151 of C.P.C. to implead one Sri. Kemparaju B.K as defendant No.2 in this suit.

2. In the affidavit accompanying, it is stated that the plaintiffs have filed the suit for Specific Performance of agreement of sale dated 11-12-2023. The plaintiffs have suppressed material facts. One Kemparaju B.K and the defendant approached the plaintiffs and borrowed the money. The defendant never entered into any agreement of sale. The said Kemparaju B.K introduced the



defendant to the plaintiffs and forced him to help him to clear his debts by borrowing money from the plaintiffs. It is misrepresented that the defendant shall execute Mortgage Deed in favour of the plaintiffs. The said Kemparaju B.K is a necessary party to the suit. Hence, prayed to allow the application.

3. The application is opposed by the plaintiff by filing objection statement. In the statement of objection, the plaintiff has stated that the application is not maintainable. It is stated that Kemparaju B.K is neither necessary nor proper party to the suit. Hence, prayed to reject the application.

4. Heard both sides.

5. The following points would arise for my consideration:

1. Whether the defendant proves that Kemparaju B.K is either necessary or proper party to the suit?
2. What order?



6. My answer to the above points are as follows:

Point No.1 : **In the Negative**

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

REASONS

7. **Point No.1:** This is a suit filed by the plaintiffs against the defendant for the relief of Specific Performance of Contract. The plaintiffs have produced the registered agreement of sale. The burden is on the plaintiffs to establish the due execution of the agreement of sale by the defendant, payment of advance consideration amount and ready and willingness by them. The present application is filed by the defendant to implead one Kemparaju B.K as defendant No.2. In a suit for Specific Performance of Contract only the parties to the agreement are necessary parties. In a decision reported in **2005(3) Supreme 574 Kasturi V/s. Iyyamperumal and others**, the Hon'ble Apex Court has clearly held that, "**Only the parties to the contract or parties claiming under them or a person who had purchased the contracted property from the vendor with or without notice of the contract person are the proper and necessary parties to the suit for specific performance of**



contract. Person who claims independent title and possession adversely to the title of the vendor is not a necessary party, since an effective decree can be passed in his absence and no relief can be claimed against such party.” In view of the decision the impleading applicant is neither necessary nor proper party to the suit. The said Kemparaju B.K has signed as a witness to the suit agreement. He is not a party to the suit agreement. If the defendant has any grievance against the proposed defendant, he can file a separate suit to establish his claim against him. It is alleged that in order to help Kemparaju B.K to repay his debts the defendant was forced to avail loan from the plaintiffs. In the present suit the said facts can not be decided. There is no allegation or claim against the said Kemparaju in the plaint. If the application is allowed, it will definitely change the nature of the suit. Therefore, the defendant has not made out grounds to allow the application as the proposed defendant is neither necessary nor proper party to the suit. **Hence, I answer Point No.1 in the Negative.**

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



ORDER

I.A. No.III filed by the defendant
under Order 1 Rule 10(1) R/w. Section
151 of C.P.C. is rejected.

No order as to cost.

(Dictated to the Stenographer, transcribed and computerized by her, same is corrected and then pronounced by me in the open court on this the 20th Day of January, 2026).

Sd/-

(PRAVEEN NAYAK)

Prl. Senior Civil Judge & JMFC.,
Devanahalli.