

ORDER ON I.A.Nos.IX & X

I.A.No.9 is filed by the plaintiff under Order 6 Rule 17 of C.P.C. to amend the plaint.

2. I.A.No.10 is filed by the plaintiff under Order 1 Rule 10(2) of C.P.C. to implead the proposed defendant in this case.

3. It is stated that suit properties are the ancestral and joint family properties. There is no division between the legal heirs of Chikkamunishamappa. The suit was filed in the year 2006. Defendants have created Sale Deed on 30.10.2006. Defendant No.6 is not bonafide purchaser. Hence, amendment is necessary to decide real controversies between the parties to the suit. Defendant No.5 has supplied xerox copy of Sale Deed dated 30.10.2006 executed by defendant No.1 to 4 in favour of defendant No.6 on 23.07.2022 and for the first time, plaintiff came to know about the said fact of execution of Sale Deed. In fact, plaintiff has not executed Sale Deed. It is falsely misrepresented as GPA holder to execute Sale Deed in respect of item No.1 property. But plaintiff has never entered into any partition with defendants. Defendant No.6 is lis pendente transferee. The proposed amendment will not change the nature of suit and cause of action. It is subsequent development and hence it is to be allowed to plead about the facts of execution of Sale Deed and misrepresentation.

4. It is also stated that proposed defendant No.6 purchased item No.1 property by creating Sale Deed in respect of item No.1 property. Since defendant No.5 has supplied xerox copy of Sale Deed on 23.07.2022, for the first time it came to know about the said transaction. Hence, it is necessary to implead the proposed defendant. At no point of time, plaintiff has entered into any transaction with defendants No.1 to 4. The documents are concocted. Hence, defendant No.6 is proper and necessary party in this suit. Plaintiff is illiterate and rustic villager. By taking advantage of the innocence of the plaintiff, defendants are playing with the plaintiff. Hence, it is prayed to allow both the applications.

5. Objection is filed to I.A.No.9 stating that application can't be allowed. It is filed at belated stage. It changes the nature of suit and cause of action and hence it is not permissible. Plaintiff has not assigned sufficient grounds to allow the application.

6. Objection to I.A.No.10 is filed stating that there is no material as to how many properties are included in the suit schedule. If the application is allowed, it will cause unnecessarily hardship. The name of proposed defendant was reflected in the revenue records in the year 2007 itself. But, present application is filed in the year 2022. It is filed after lapse of 16 years from the date of suit and there is inordinate delay. There is no merit in the application. It is contrary to the

actual facts. Hence, it is prayed to dismiss both the applications.

7. Heard both and perused the materials on record.

8. The suit is filed by the plaintiff for the relief of partition seeking 1/4th share in the suit properties which are 2 in number. The present applications are filed by the plaintiff to amend the plaint and to implead proposed defendant No.6. Along with the application, the Sale Deed dated 30.10.2006 is produced. It is executed between the defendants in respect of item No.1 property. The name of plaintiff is appearing in the said Sale Deed. But plaintiff has not signed on the said document. It is also mentioned that plaintiff is represented through GPA holder namely Chikkamunishamappa. It is disputed by the plaintiff. It is executed in favour of proposed defendant No.6 namely Roopa. Whether there was execution of GPA or not can't be decided at this time. It requires trial to prove the same by the plaintiff. Sale Deed is in respect of item No.1 property. The purchaser is not in the suit. Hence, to decide the controversies between the parties to the suit, the proposed defendant No.6 is to be added in the suit. Since she has purchased item No.1 property, she is proper and necessary party in this suit for complete adjudication of the case. It is also stated that plaintiff has received copy of the Sale Deed on 23.07.2022. It is also stated that defendants

have created documents. It is to be proved by the plaintiff. It requires complete adjudication of the suit. But opportunity is to be given to the plaintiff to implead the proposed defendant and to amend the plaint as prayed. In the proposed amendment, it is stated about filing of written statement by defendant No.5 in the year 2021 stating about Sale Deed for the year 2006 and thereafter plaintiff came to know about the said document. It is also stated that Sale Deed in favour of proposed defendant No.6 is not binding on the plaintiff share in respect of item No.1 property. It is his burden to prove the same. It is also stated that Sale Deed is fraudulent and it is created without the signature of the plaintiff and his family members. The advocate for proposed defendant has produced GPA dated 28.10.2006. In that GPA, the name of plaintiff is appearing and he has put signature in the said GPA. But at this time, it can't be stated that it is genuine or not. It is in respect of item No.1 property. It is purchased by proposed defendant who is to come on record. Since there is fact with respect to Sale Deed and plaintiff has stated that the Sale Deed is fraudulent and created without his signature, it is to be permitted to plead. Hence, on perusal of entire materials on the record, I am of the opinion that objection is not sustainable. There are grounds in the applications. To avoid multiplicity of proceedings, the proposed amendment is necessary to plead to determine the real controversies between the parties to the suit. Accordingly, plaintiff is permitted to

implead the proposed defendant as per the reason stated therein. Hence, I pass the following:

ORDER

I.A.No.9 filed by the plaintiff under order 6 Rule 17 and I.A.No.10 filed under order 1 Rule 10(2) read with Section 151 of Civil Procedure of Code are hereby allowed .

For amendment, impleadment and amended plaint by 31.07.2025.

Sd/-
(Lokesha.M.G.)
I Addl Sr.Civil Judge & Jmfc.,
Devanahalli.