



**IN THE COURT OF I ADDL SENIOR CIVIL JUDGE & JMFC,
DEVANAHALLI.**

Present: Sri Lokesha M.G., B.A.L.,LL.B.

O.S.No.2170/2006

Dated this the 23rd day of October, 2025.

PLAINTIFFS: Smt. Munithayamma
Since Dead by LRs.

(By Advocate Sri. N.V.,)

V/s.

DEFENDANTS: Sri. Kempanna & Another

(By Advocates Sri. K.N.M., &
S.N.T.,)

i.	Provision under which the application is filed	1 Rule 10
ii.	Relief sought for	Impleadment
iii.	The date on which the application is filed	25.04.2025
iv.	Number of the application	26
v.	The date on which the objections are filed by different opponents	03.07.2025
vi.	The date on which the orders were passed on the said application	23.10.2025



ORDER ON I.A.No.XXVI

I.A.No.26 is filed by the proposed defendants under Order 1 Rule 10(2) of C.P.C., to implead them in this suit.

2. It is stated that plaintiffs have filed the suit for Partition. Kempanna is the propositus of the joint family. His wife is Muniyamma. They had 3 children namely Kempamma, Muthur Basappa and Pillamma. The applicants are the legal heirs of Pillamma. Pillamma died leaving the applicants as her legal heirs. Without making them as parties, suit was filed. Applicants came to know about the present case recently from the reliable sources. Suit properties are ancestral and joint family properties. Legal heirs of Pillamma are entitled to legitimate share in the suit properties. Plaintiff has suppressed family tree and filed the suit to deprive the legitimate share. Hence, it is just and necessary to implead in this case to contest the case and to protect the rights in respect of suit properties. Hence, it is prayed to allow the application.

3. The plaintiffs have filed objection stating that application is not maintainable. Suit is for Partition. It is not the case of the plaintiff that suit properties were



acquired by Muthur Basappa through his ancestors. The Kempanna died earlier to 1956. Hence, there is no question of either Pillamma or applicants being the children of Late Pillamma to claim the right. Pillamma and her husband died about 4 decades ago. First son of Pillamma namely Anjinappa also died 7 years ago. Second one Jayamma is aged about 65 years. If Pillamma had any right over the suit properties, she would have raised claim. Since she didn't possess any right, she had not raised any claim. To drag the case, application is filed. First daughter of Pillamma namely Jayamma is the wife of defendant No.1 Kempanna. Applicants are the brothers of said Jayamma. Hence, application is not maintainable. Accordingly, it is prayed to dismiss the application.

4. Heard both and perused the materials on record.

5. The plaintiff has filed the suit for partition seeking share in respect of suit properties. It is also sought to declare Sale Deed dated 23.02.2007 executed by defendant No.1 in favour of defendant No.4 in respect of portion of item No.1 property is not binding on the plaintiff. It is also sought to declare Sale Deed for the year



1996 in respect of item No.2 is not binding on the plaintiff. Present application is filed by the proposed defendants stating that they are having right in respect of suit properties which are ancestral properties. They are related to the family of plaintiff and defendants. Accordingly, family tree is produced to support the application averments. It shows that proposed defendants are the children of Pillamma and Krishnappa. Both are dead. Pillamma is the daughter of Kempanna and Muniyamma and she is the sister of Muthur Basappa. In the plaint, it is stated about Muthur Basappa. It is not stated about Pillamma and Others. Family tree discloses that applicants are the legal heirs of Pillamma. In the objection, it is also stated that applicants are brothers of Jayamma who is the wife of defendant No.1. On perusal of objection, it is clear that they have not denied the relationship as pleaded in the application. But, it is stated that applicants need not be made as parties. It is also stated that Pillamma had no right over the suit properties and she died long back. She didn't raise any claim during her lifetime and hence her children also can't claim right in respect of suit properties. Such contention doesn't hold good. Because, it is pleaded that suit properties are joint



family properties and Pillamma and her legal heirs are having right over the suit properties. It is their burden to prove the said aspects. It requires trial. On perusal of entire materials on the record, it is clear that proposed defendants are related to Pillamma who is the daughter of Kempanna and Muniyamma. Hence, it can be stated that proposed defendants are proper and necessary parties in this suit as it is for partition. It is their burden to prove that they are having legitimate right over the suit properties. But, opportunity is to be given to them to prove the said aspect. Hence, objection is not sustainable. There are grounds in the application. Advocate for plaintiff has produced Sale Deeds, Record of Rights, copy of Order in Writ Petition. In respect of this application, they don't help the plaintiffs. The applicants are related to defendants. It is a suit for Partition. All the proper and necessary parties should be made as parties to adjudicate the case in effective manner. Hence, On perusal of entire materials on the record, I am of the opinion that application is liable to



be allowed. Accordingly, I pass the following:

ORDER

I.A.No.26 filed under Order
1 Rule 10(2) of C.P.C., by the
impleading applicants/proposed
defendants is hereby allowed.

For impleadment and amended
plaint.

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