

**23-03-2021**

**ORDERS ON I.A. NO. 3**

The plaintiffs have filed I.A. No. 3 U/O 1 Rule 10(2) of C.P.C. and the plaintiffs seek impleading of defendants No.4 to 6 in the present suit.

2. In support of I.A. No. 3 the plaintiff No.1 files her affidavit for herself and for other plaintiffs. The 1<sup>st</sup> plaintiff deposes that, in the written statement filed by the defendant No.2 and 3 they have contended about selling item No.1 in favour of proposed defendant No.5 on 29-06-2014 and the item No.2 in favour of proposed defendant No.4 and subsequently the proposed defendant No.5 has sold item No.1 in favour of proposed defendant No.6. For these reasons the proposed defendants 4 to 6 are necessary parties and hence, the plaintiffs prays for allowing the I.A. No. 3.

3. The proposed defendant No.4 to 6 have received notice and they have submitted their objections to the I.A. No. 3. The main contention of the proposed defendants No.4 to 6 is that, the above suit is filed in the year 2009 and the alleged sales are made in favour of these defendants almost 7 years before filing of the suit. More over, the plaintiffs have not sought any relieves against the proposed defendants and since the suit is filed after lapse of 13 years without challenging the

sale deeds and therefore, the application is not maintainable. For these reasons, the proposed defendant No.4 to 6 pray for rejection of I.A. No. 3.

4. The arguments are addressed by both sides. On appreciation of material on record together with facts and circumstances of the case, the point that arise for consideration before the Court are as follows;

- 1) **Point No.1: Whether the plaintiffs show that the proposed defendants No.4 to 6 are proper and necessary parties in the absence of them the case cannot be completely be disposed off?**
- 2) **Point No.2: What order?**

5. **The Court answers the Point No. 1 in the Affirmative and for Point No.2 as per the final order for the following;**

### **REASONS**

6. **Point No.1:-** in the affidavit of plaintiff No.1 annexed to the I.A. No. 3, she has contended that, it was only in the written statement of the defendant No.2 and 3 they have contended about sale of item No.1 and 2 in favour of proposed

defendants and therefore, the plaintiffs are seeking addition of these defendants in the suit. The perusal of the written statement of defendant No.2 and 3 shows that, they have filed their written statement on 23-05-2011 and in Para No.6 (a) to (k) of the written statement the defendants No.2 and 3 have specifically contended about purchase of item No.1 and 2 by the proposed defendants. The objections of the proposed defendants also admit about sale made in their favour and their only contention is that, the plaintiffs have filed I.A. No. 3 at a belated stage. However, this Court was not inclined to allow the I.A. No. 3 if the proposed defendants have not admitted about purchase of suit schedule item No.1 and 2. Therefore, even if the suit is decreed without arraying the proposed defendants in the suit, then it will be difficult for the plaintiffs to execute the said decree for the reason of sale of item No.1 and 2 in favour of proposed defendant No.4 to 6. For these reasons, the plaintiffs show that, the proposed defendant No.4 to 6 are proper and necessary parties in their absence the suit cannot be completely be disposed off. Therefore, the Court answers Point No.1 in the affirmative and proceed to pass the following;

**ORDER**

The I.A. No. 3 filed U/O 1 Rule 10(2) of C.P.C. is hereby allowed.

The plaintiffs are permitted to implead the proposed defendant No.4 to 6 in the suit.

The plaintiffs shall amend the plaint and furnish amended plaint in the next date of hearing.

Call on: **16-04-2021.**

**(Dictated to the Typist in the open Court, typed by her and corrected, signed and pronounced by me in the open Court)**

**Pri. Senior Civil Judge & JMFC,  
Devanahalli.**