

KABR310006952025



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

PRESENT

SRI. NATARAJ YADAV .S, M.B.A., LL.B.,

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

Dated this day of 20th July, 2026

O.S.No.544/2025

BETWEEN:

Smt. Muniyamma and others : **Plaintiffs**

(Plt - By Sri.M.G., Advocate)

AND:

Sri. P. Narayanaswamy and others : **Defendants**

(Defs.1 to 3 - By Sri. D.N.N., Advocate)

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<i>i</i>	<i>Provision under which the application is filed</i>	<i>under Order I Rule 10 read with Section 151 of the Code of Civil Procedure, 1908,</i>
<i>ii</i>	<i>Relief sought for</i>	<i>impleadment as co-defendants</i>
<i>iii</i>	<i>The date on which the application is filed</i>	<i>09-06-2026</i>
<i>iv</i>	<i>Number of the application</i>	<i>I.A.No. 3</i>



v	Date of filing objection	Orally objected on 20-07-2026
vi	Date of Pronouncement of Order	20-07-2026

Sd/-

(NATARAJ YADAV .S)
Prl. Senior Civil Judge & JMFC.,
Devanahalli.

ORDER

I. Introduction

1. The present order shall dispose of an application filed by the applicants under Order I Rule 10 read with Section 151 of the Code of Civil Procedure, 1908, seeking their impleadment as co-defendants in the present suit for partition.

II. Facts of the Application

2. The applicants have averred that the suit properties originally belonged to late Bandahalli Munishamappa. It is their case that one Narasamma was one of the daughters of the said Bandahalli Munishamappa and that the applicants are the legal heirs of the said deceased Narasamma.

2.1 It is further averred that though the plaintiffs have instituted the present suit for partition and separate possession, they have merely stated in the plaint that Narasamma is no more.



According to the applicants, the plaint is conspicuously silent regarding the fact that Narasamma died intestate leaving behind the present applicants as her legal heirs.

2.2 The applicants contend that upon the demise of Narasamma, they have succeeded to her estate and stepped into her shoes. Since the present suit pertains to partition of the family properties, any decree passed in their absence would directly affect their rights and interests in the suit properties. It is, therefore, prayed that they be impleaded as co-defendants in order to enable the Court to completely and effectively adjudicate upon all the questions involved in the suit.

2.3 The plaintiffs have opposed the application. Learned counsel for the plaintiffs submitted that the application is not maintainable under the provisions relied upon by the applicants. However, during the course of arguments, the relationship of the applicants with the deceased Narasamma has not been disputed.

III. Points for Consideration

3. The following point arises for consideration:

Whether the applicants have made out a case for their impleadment as co-defendants under Order I Rule 10 CPC?

IV. Submissions



4. Learned counsel for the applicants submitted that the applicants are the legal heirs of deceased Narasamma, who herself was one of the children of late Bandahalli Munishamappa. It was argued that in a suit for partition every co-sharer or every person claiming through a co-sharer is a necessary and proper party. It was further submitted that unless the applicants are brought on record, any decree passed in the present suit may result in multiplicity of proceedings and may not effectively determine the rights of all persons interested in the estate.

4.1 Per contra, learned counsel for the plaintiffs submitted that the application is not maintainable under the provisions invoked by the applicants. It was, however, not disputed that the applicants are the legal heirs of deceased Narasamma.

5. The Court has given thoughtful consideration to the rival submissions.

IV. Findings

5.1 Order I Rule 10(2) CPC confers a wide discretionary power upon the Court to add any person as a party whose presence before the Court is necessary or proper in order to enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit.

5.2 The present suit is one for partition and separate possession. It is well settled that in a partition suit, every person having a



share or claiming through a co-sharer in the joint family property is a necessary and proper party. A decree for partition should ordinarily bind all persons having an interest in the property so as to avoid multiplicity of litigation and conflicting decrees.

5.3 In the present case, it is specifically pleaded that the applicants are the legal heirs of deceased Narasamma, who was one of the children of late Bandahalli Munishammappa. Though the plaintiffs have objected to the maintainability of the application, they have not disputed the relationship of the applicants with deceased Narasamma. Once the applicants claim through a deceased co-sharer and such relationship is not in dispute, their claim cannot be brushed aside at the threshold.

5.4 The contention regarding the maintainability of the application is of no assistance to the plaintiffs. The nomenclature or the provision under which an application is filed is not decisive. If the Court otherwise possesses the jurisdiction to grant the relief sought and the facts justify such exercise, the application cannot be rejected merely on account of an incorrect or incomplete reference to the provision of law.

5.5 Since the applicants claim to have inherited the interest of deceased Narasamma in the suit properties, their rights are likely to be directly affected by the outcome of the present proceedings. Any decree passed in their absence may neither



completely settle the controversy nor bind all interested parties and may consequently give rise to further litigation.

5.6 This Court is, therefore, satisfied that the applicants are, at the very least, proper parties and, in the facts of the present case, their presence is also necessary for the complete, effective and final adjudication of all the questions arising in the suit. Accordingly, the point for consideration is answered in favour of the applicants. In view of the foregoing discussion, the application under Order I Rule 10 read with Section 151 CPC deserves to be allowed and consequently, I proceed to pass the following;

ORDER

The application under Order I Rule 10 read with Section 151 CPC deserves is hereby allowed.

The applicants are permitted to be impleaded as co-defendants in the present suit.

The plaintiffs shall carry out the necessary amendment in the memo of parties and shall file an amended memo of parties.

The newly impleaded defendants shall be entitled to file their written statement within the period prescribed under law.



***Re issue S/S to defendant no.4 and 5 and notice
on IA no.II to proposed defendants.***

Put up on 20.08.2026

*(Dictated to the Stenographer on computer, typed by her, revised, corrected and
then pronounced by me in the open Court on this the 20th day of July, 2026.)*

Sd/-

(NATARAJ YADAV .S)

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