

15-04-2024

ORDERS ON I.A.NO.4 DATED 21.04.2023

The Proposed Defendant No.2 Smt. S. M. Savitha has filed the above I.A.No.4 under Order 1 Rule 10(2) R/w. Sec.151 of C.P.C. by seeking to be impleaded in this suit as the additional defendant.

2) In support of the I.A.No.4, the Proposed Defendant No.2 has filed her affidavit by deposing on oath. In brief, she has averred that, the plaintiff Smt. Shakunthala has filed the above suit for the relief of Partition & Separate Possession. One Late. Sri. S. G. Ramanna was the Propositus of the family consisting of plaintiff, defendant and the Proposed Defendant No.2. The Propositus had five children and among them, Late. Smt. Sampangamma was also one of the daughters and the Proposed Defendant No.2 is none other than the daughter of Late. Smt. Sampangamma and therefore, she is also having rights over the suit schedule properties. For these reasons, the Proposed Defendant No.2 has sought for permission to come on the record as the additional defendant as a necessary and proper party in the above suit.

3) The plaintiff has filed her objections to the I.A.No.4 and she has contended that, the relationship claimed by the

Proposed Defendant No.2 is false and the Proposed Defendant No.2 is in no way connected with the family of the plaintiff and the defendant on record and therefore, the Proposed Defendant No.2 is neither necessary nor proper party for this suit.

4) The rival parties have addressed their arguments on the merits of the I.A.No.4 and the Proposed Defendant No.2 has filed a Memo along with the documents.

5) By appreciating the facts and circumstances leading up to filing of the I.A.No.4, the following Points are arisen for my consideration:

POINTS

1) Whether the Proposed Defendant No.2 shows that, her presence in this suit is necessary for complete and final adjudication of all the questions involved in the suit as contended in her I.A.No.4?

2) What Order?

6) Now, my answers to the above Points are as follows:

Point No.1: In the Affirmative

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

REASONS

7) **Point No.1:** I have already narrated the facts pleaded by the Proposed Defendant No.2 and by the Plaintiff at the inception of this Order and therefore, it is not necessary for me to reiterate the same once again here.

8) I have perused the plaint and documents produced by the plaintiff along with the plaint. The plaintiff has contended that, the Propositus of her family was one Sri. Ramaiah and the said Sri. Ramaiah was having 4 children including the plaintiff, defendant, Smt. Rathnamma and Smt. Bhagyamma. The plaintiff has also contended in Paragraph No.4 of the plaint that, Late. Sri. Ramaiah's daughters Smt. Rathnamma and Smt. Bhagyamma have executed a Registered Release Deed dated 02.07.2021 and got separated from their joint family. Even in the Genealogical Tree produced by the plaintiff along with the plaint, the plaintiff has shown only 4 children for the Propositus Late. Sri. G. S. Ramanna and his wife Late. Smt. Subbamma. On the other hand, the Proposed Defendant No.2 has furnished another Genealogical Tree by showing 5 children for the Propositus Late. Sri. G. S. Ramanna and his wife Late. Smt.

Subbamma. The Proposed Defendant No.2 has furnished Death Certificate of her mother Smt. Sampangamma who was died on 01.12.1986 and her husband's name was mentioned as Sri. Muniraju. The Voter's List for the year 2006 furnished by the Proposed Defendant No.2 contains the names of Proposed Defendant No.2 along with the Propositus and other family members including the plaintiff. Apart from these documents, the Proposed Defendant No.2 has also furnished Genealogical Tree issued by the Revenue Department by showing herself as member of the family consisting of Smt. Sampangamma and Sri. Muniraju. These documents pertains to the year 1986 & 2006 and they belongs to an undisputed point of time when the plaintiff and the Proposed Defendant No.2 are not at logger heads and therefore, the entries in these documents clearly show that, the Proposed Defendant No.2 is also one of the family members of the Propositus Late. Sri. Ramaiah. Therefore, on the basis of the above documents, the Proposed Defendant No.2 has made out grounds to permit her to come on the record as a necessary and proper party to defend her rights. Accordingly, I answer the **Point No.1 in the Affirmative.**

9) **Point No.2:-** For the above discussion, I proceed to pass the following:

ORDER

The I.A.No.4 filed by the Proposed Defendant No.2 under Order 1 Rule 10(2) R/w. Sec.151 of C.P.C. is hereby allowed.

The plaintiff is directed to amend the plaint by showing newly added defendant No.2 in the cause title and submit amended plaint in the Office before next date of hearing.

Since the Proposed Defendant No.2 herself has filed application to come on the record and therefore, without seeking any further time, she is directed to file her written statement on the next date of hearing.

Posted for filing written statement of newly added defendant No.2 by 15.06.2024

(Dictated to the Typist directly on computer and corrected and then pronounced by me in the open Court on 15th April 2024).

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