

KABR320002972008



IN THE COURT OF PRL. CIVIL JUDGE, & JMFC., AT

DEVANAHALLI.

Dated this 27th day of June 2025

: PRESENT:

SRI. VENKATESHA.N., B.A.LL.B, LL.M.,
PRL. CIVIL JUDGE & JMFC.,
DEVANAHALLI.

O.S.145/2008

PLAINTIFF/s : **Sri. Shivakumar**
Late Munishamappa,
Aged about 40 years,
R/at Chikkanahalli Village,
Vijayapura Hobli, Devanahalli Taluk.

V/s

DEFENDANT/s: **Sri. V. Muniyappa**
Dead by his Lrs.,

1(a). Smt. Parijathamma
W/o Late V. Muniyappa,
Aged about 65 years,

1(b). Smt. Dhanalakshmi
D/o Late V. Muniyappa,
Aged about 58 years,

1(c). Sri. Shivanna

S/o Late V. Muniyappa,
Aged about 55 years,

1(d). Sri. Venkatesh

S/o Late V. Muniyappa,
Aged about 52 years,

1(e) Smt. Suguna

D/o Late V. Muniyappa,
Aged about 49 years,

1(f). Sri. Krishnamurthy

S/o Late V. Muniyappa,
Aged about 45 years,

1(g). Sri. Manjunath

Dead by his Lrs.,

(a). Smt. Malathi

W/o Late Manjunath,
Aged about 40 years,

(b). Sri. Nikith

S/o Late Manjunath,
Aged about 21 years,

(c). Sri. Nikhil

S/o Late Manjunath,
Aged about 19 years,

All are R/at Chikkanahalli Village,
Vijayapura Hobli, Devanahalli Taluk,

I.A.No. XVI**APPLICANT/s :****1. M. Venkatarayappa**

S/o Late Munishamappa,
Aged about 77 years,

2. M. Lakshminarasamma

D/o Late M. Muniramappa,
W/o Srinivas,
Aged about 45 years,
R/at Harikere, Bangalore.

3. M. Kusuma

D/o Late M. Muniramappa,
W/o Kumar,
Aged about 43 years,
R/at Thindlu Village,
Bangalore.

4. M. Lakshmisha

S/o Late M. Muniramappa,
Aged about 40 years,

5. M. Girish

W/o Late M. Muniramappa,
W/o Srinivas,
Aged about 37 years,

6. Pillmuniyappa

W/o Late M. Krishnappa,
Aged about 65 years,

7. Kavitha K

D/o Late M. Krishnappa,
Aged about 40 years,
R/at Karahalli Village,
Kundana Hobli,
Devanahalli Taluk.

8. Murthy K

S/o Late M. Krishnappa,
Aged about 38 years,

9. Leela K

D/o Late M. Krishnappa,
W/o Kantharaju,
Aged about 36 years,
R/at Nandagunda Village,
Devanahalli Taluk.

10. Sarojamma

D/o Late Munishamappa,
W/o S. Muniyappa,
Aged about 69 years,
R/at Yennaganur Village,
Jangamakote Hobli,
Shidlaghatta Taluk,
Chickballapur District.

11. M. Balaraju

S/o Late Munishamappa,
Aged about 67 years,

12. M. Narayanaswamy

S/o Late Munishmappa,
Aged about 64 years,

13. M. Shankarappa

S/o Late Munishamappa,
Aged about 62 years,

The applicant No.1, 4 to 6, 8, 11 & 13
are R/at Chikkanahalli Village,
Vijayapura Hobli, Devanahalli Taluk.

(Proposed Plaintiff No.1 to 13)
(By T.K.S., Advocate)

V/s

OPPONENTS/s:

V. Muniyappa

S/o Late Venkatarappa,
Aged about 65 years,
R/at Chikkanahalli Village,
Vijayapura Hobli, Devanahalli Taluk.

(By Sri.B.M.B., Advocate)

i.	<i>Provision under which the application is filed</i>	<i>I Rule 10(2) of CPC</i>
ii.	<i>Relief sought for</i>	<i>To include Proposed Plaintiff No.1 to 13</i>
iii.	<i>The date on which the application is filed</i>	<i>05.02.2015</i>
iv.	<i>Number of the application</i>	<i>IA.No. XVI</i>

v.	<i>The date on which the objections are filed by different opponents</i>	<i>18.02.2025</i>
vi.	<i>The date on which the orders were passed on the said application</i>	<i>27.06.2025</i>

ORDER ON I.A.XVI

The Applicants have filed this application under Order 1 rule 10(2) R/w Sec.151 of Civil Procedure Code seeking an Order to permit the applicants to implead as Plaintiffs.

2. It is contended by the Applicants that, plaintiff has filed this suit against defendants for the relief of declaration and permanent injunction. It is the contention of the applicants that suit schedule property is ancestral and joint family property of plaintiff and applicants. Katha of the suit schedule property stands in the name of Munishamappa. Defendants have taken a contention in the written statement that applicants are the necessary parties to the suit. This court has also framed issue No.4 in this regard. Earlier counsel for plaintiffs has not included the applicants. Now, the plaintiffs have changed their counsel and he has filed this application.

3. Further, it is contended that applicants are very much necessary in this suit. If the application is not allowed it will cause irreparable loss and injury to applicants. On the other hand, if the application is allowed no hardship will be caused to defendants. Hence, prays to allow the application.

4. On the other hand defendant has filed objection to applications contending that, application is not maintainable both under law as well as on facts. Hence, liable to be dismissed. It is contended that applicants have filed this application only to drag on and proceedings. This application has been filed when the case was posted for replay arguments. Defendant has filed written statement on 12.03.2008. Applicants have filed this application after lapse of 17 years.

5. Further it is contended that in the chief examination of plaintiff on 05.09.2022 himself has admitted that his brothers have orally divided the properties in the year 2019 and compromise petition was also filed before the Hon'ble Prl. Senior Civil Judge & JMFC., at Devanahalli. As per the said partition and compromise

petition, plaintiff and his brothers have got separate properties. If the application is allowed it will cause irreparable loss and injury to the defendant. On the other hand it will not cause any hardship to the applicants if the same is dismissed. Hence, prays to dismiss the application.

6. Heard both side arguments. Perused material on record.

7. After hearing both side arguments and perusal of material on record the points that arise for my consideration as follows:-

1. Whether the applicants made out that they are necessary parties to the suit ?

2. What order?

8. After going through the material on record and after hearing both parties I have answered the points in the following:-

Point No.1 : In the **NEGATIVE**

Point No.2 : As per the final order,
for the following:-

REASONS

9. Point No.1:- It is the case of the applicants that the suit schedule properties are ancestral properties of plaintiff and applicants. Plaintiff has filed this suit against the defendant for the relief of declaration and permanent injunction. Since the property is ancestral and joint family property applicants are necessary parties to the suit. It is pertinent to note that the suit was filed in the year 2008. Defendants filed written statement on 12.03.2008. Thereafter, both side evidence recorded and posted for arguments. When the case was posted for replay arguments applicants have failed this application. In support of their case applicants have not produced any material to show that suit schedule property is joint family property of plaintiff and applicants.

10. Further, it is pertinent to note that, this application has been filed after lapse of 17 years, when the case was posted for reply arguments. This shows that application has been filed only to drag on the proceedings. This suit is filed for declaration of title and permanent injunction against the defendant. According to

applicants they are joint owners along with plaintiff. If the applicants have any right in the schedule property they can file suit for partition against the plaintiff. If the applicants are permitted to come on record in this suit nature of suit will change and cause of action also will change. It will delay the trail also. Hence, in the opinion of this court applicants are not necessary parties to this suit. Hence, for the aforesaid reasons Point No.1 is answered in the **NEGATIVE.**

11. Point No.2:- For the aforesaid reason and discussion, I proceed to pass the following:-

ORDER

**I.A.No.XVI filed by the Applicants
under Order 1 Rule 10(2) R/w Sec.151 of
CPC is hereby dismissed.**

**Considering the facts and
circumstances of the case no order as to
cost.**

(Dictated to the Stenographer on computer and computerized by her, corrected by me and then pronounced in the open court on this the 27th day of June 2025)

(VENKATESHA.N)
PRL. CIVIL JUDGE & JMFC.,
DEVANAHALLI.

