

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,

AT DODDABALLAPUR.

Dated this the 2nd day of March, 2018

PRESENT: Sri.M.B.KULKARNI,
B.Sc., LL.B (Spl)
Senior Civil Judge & JMFC.,
Doddaballapur.

O.S.No.136/2012

Plaintiff: 1. Sri.Nagaraju.K. & another

(Reptd by advocate Sri.YSR.)

V/s.

Defendants: 1. Smt.Akkayamma and others

(Reptd by Advocate Sri.MKB
advocate for D-1 to 7, 10 to 12 and
15, Sri.AKM for D-9, Sri.DS for D-14
and D-8 and 13 are placed exparte.)

ORDERS ON IA No.VII

This is the application filed by the plaintiff under order 1 Rule 10(2) of CPC for impleadment of proposed defendant No.15 whose name is shown in the said application in the interest of justice and equity.

2. In the accompanying affidavit of I.A.No.VII it is averred by plaintiff No.2 that himself and other plaintiffs have filed suit for partition and separate possession and other reliefs against defendants. The suit properties are the ancestral/joint family properties of themselves and defendants No.1 to 12 who are in joint possession and enjoyment of the same as co-parceners and till today partition is not effected in their joint family. Such being the facts

during pendency of the suit the defendant No.7 has sold out Item No.1 of the schedule of plaint in favour of the purchaser by name Sri.Narayanaswamy S/o Anjinappa who is proposed defendant No.15 in this suit under registered sale deed dated 19-10-2012 without consent of other plaintiffs and defendants. Hence, the purchaser is necessary party to this suit to adjudicate the rights and liabilities of the parties to the suit. Hence, prayed to allow I.A.No.VII.

3. The notice of I.A.No.VII is duly served upon proposed defendant No.15 and Sri.MKB advocate filed vakalath on his behalf on 29-04-2016 but not filed any objections to such I.A. Hence, posted for arguments on I.A.No.VII.

4. Heard arguments of plaintiffs and defendant No.9 and other defendants on I.A.No.VII.

5. In the light of the above the following points arise for my consideration.

Point No.1: Whether the I.A.No.VII filed by the
plaintiff deserves to be allowed?

Point No.2: What order?

6. My findings to the above points are as under:

Point No.1: In the Affirmative.

Point No.2: As per final order.

REASONS

7. **Point No. 1:** The careful perusal of the averments of the affidavit of I.A.No.VII itself clearly goes to reveal that the proposed defendant No.15 is the purchaser of the Item No.1 of the schedule of

plaint, during the pendency of the suit and he is not impleaded as a party to this suit so far. The careful perusal of the xerox copy of the sale deed of the Item No.1 of the schedule of plaint produced by defendants No.1 to 7 along with list of documents dated 16-01-2012 goes to reveal that on 19-10-2012 the defendant No.7 and his wife and children sold out Item No.1 of suit property in favour of proposed defendant No.15 i.e., purchaser of such property. Therefore, as rightly contended by the plaintiff, the purchaser of suit property is the necessary party to this suit, who requires to be impleaded as defendant No.15 in this suit and without his impleadment the rights and liabilities of the parties to the suit cannot be decided completely and finally on merits of case and to avoid the multiplicity of the proceedings and also to avoid the non-maintainability of the suit on technical ground it is necessary to allow I.A.No.VII. Hence, I answered point No.1 in the affirmative.

8. Point No. 2: On the basis of my above reasons and in the result I proceed to pass following;

ORDER

1. The I.A.No.VII filed by the plaintiff is hereby allowed and plaintiff is permitted to implead the proposed defendant No.15 in this suit by way of amendment of cause title of the plaint.

(Dictated to the Typist copyist, typed by her, corrected and then pronounced by me in the open Court on the 2nd day of March, 2018.)

(M.B.KULKARNI)
Senior Civil Judge,
Doddaballapur.