

- Dated 17-11-2021

Order on I.A.No.VI under order 1 Rule 10(2) of C.P.C.-

This is an application filed by the proposed defendant No.2 under order 1 Rule 10(2) of C.P.C. for impleading him as defendant No.2 to the present suit.

FACTS IN BRIEF

2. This is the suit filed by the plaintiff against the defendant for the relief of declaration of title to declare plaintiff has owner of suit property on the basis of sale deed dated 24-09-1968 at document No.2215/1968-69 and consequential relief of permanent injunction restraining the defendant from interfering with plaintiff possession over suit property. Defendant is alleged to be who have denied the title of plaintiff. Hence, this suit is filed by the plaintiff against the sole defendant. In pendency of suit even when written statement is not filed. The present proposed defendant No.2 has filed the present application under order 1 Rule 10(2) of C.P.C. to implead him as defendant No.2. The proposed defendant has filed affidavit stating that he is the owner of suit land Sy.No.87/2B of Lakshmidvipura and he is in exclusive possession of suit property. Hence, his rights is said to be involved in this suit. Hence, he has prayed to implead him as defendant No.2.

3. The plaintiff has filed objections to this I.A. The substance of objection is that the dispute is in respect of Sy.No.87/2A of Lakshmidvipura and proposed defendant is claiming right in the Sy.No.87/2. Therefore, plaintiff has contended that the proposed defendant No.2 is not a necessary party to the present suit. Accordingly, prayed to reject I.A.No.VI.

4. Heard arguments of both sides.

5. The points arise

1. Whether proposed defendant No.2 is necessary party for effectual and complete adjudication of all the questions involved in this suit?
2. What order?

6. My findings on the aforesaid points as under.
1. Point No.1: In the affirmative.
 2. Point No.2: As per final order for the following;

REASONS

POINT No.1:

This is a suit for declaration of title by the plaintiff against the defendant on the basis of registered sale deed dated 24-09-1968 at document No.2215/1968-69. The property ie., purchased under the said sale deed is Sy.No.87/2 of Lakshmidvipura ie., the old Survey number of suit land in Sy.No.87/2 and new Survey number is Sy.No.87/2A. This is very clear from the sale deed which is relied upon by the plaintiff and the RTC produced by the plaintiff. Therefore, the old Sy.No.87/2 and suit Sy.No.87/2A are one and the same survey numbers and dispute is in respect of original Sy.No.87/2. The proposed defendant No.2 is claiming his right in old Sy.No.87/2 and new Sy.No.87/2B. Sy.No.87/2A and Sy.No.87/2B are the part of original Sy.No.87/2. Hence, the rights of proposed defendant No.2 are also involved in this suit. The orders of Assistant Commissioner, Doddaballapur in R.A.(DBP)No.148/2007 in respect of Sy.No.87/2B the proposed defendant No.2 is a party. Therefore, proposed defendant No.2 is necessary party to the present suit for effectual and complete adjudication of matter. Hence, I answered point No.1 in the affirmative.

POINT No.2:

7. In view of my findings on point No.1, I proceed to pass the following;

ORDER

I.A.No.VI filed by the proposed defendant No.2 under order 1 Rule 1 (2) of C.P.C. is hereby allowed
Proposed defendant No.2 is impleaded as defendant No.2 to the present suit.

Senior Civil Judge and JMFC.,
Doddaballapur.

For amendments and amended plaint
Call on 02-12-2021.

Senior Civil Judge and JMFC.,
Doddaballapur.