

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
HOSAKOTE.**

PRESENT:

Sri. Arun Kumar.G. B.A., LL.B.
Senior Civil Judge & JMFC,
Hosakote.

Dated this the 19th day of March 2025

O.S.No.2710/2022 (Old No.256/2017)

Plaintiff/s : Sri.Vijay Kumar B.T. & Anr.

- V/s -

Defendant/s : Sri.B.N.Anand & Ors.

Applicant/s : Sri. Vijay Kumar B.T. & Anr.

Provision under which the application is filed	1) Order 1 Rule 10 (2) of CPC
Relief sought for	To implead the applicant as defendant
The date on which the application is filed	22-08-2023
Number of the applications	I.A.No.1/2023
The date on which the objection is filed by the different opponents	17-01-2025
The date on which the order is passed on the said application	19-03-2025

Orders on I.A.No.1/2023

The counsel for plaintiffs have filed the above application to implead the proposed defendant as he is a proper and necessary party to this suit.

2. In the annexed affidavit it is stated that the defendant No.1 and 2 by colluding themselves have created the partition deed through which the suit schedule property was allotted in favour of proposed defendant who is not a family member of the defendants. Therefore, his presence is very much necessary to adjudicate the same.

3. In the objections the proposed defendant denied title of the plaintiff over the suit schedule property and further taken a contention that after the death of original owner Dandu Channappa, the defendant No.1 and 2 obtained mutation in their favour and they were continued in possession and enjoyment over the suit schedule property. The defendant No.1 and 2 along with other joint family members have entered into a partition deed dated 18-11-2022 and in the said partition deed, the suit schedule property was allotted in favour of

proposed defendant. By virtue of the same, he is in possession and enjoyment over the said property. As such he is not a proper and necessary party to the suit.

4. Based upon the above contentions of the plaintiff and the proposed defendant, following points arise for consideration of this court:

1. Whether the plaintiffs have made out sufficient grounds to allow the application?
2. What order?

5. Heard arguments. On due perusal of the records, the court findings on the above points are as under:

- | | | |
|------------|---|---------------------------------------|
| Point No.1 | : | In the Affirmative, |
| Point No.2 | : | As per final order for the following; |

REASONS

6. **Point No.1:-** The above suit is filed by the plaintiffs against the defendants for the relief of declaration and permanent injunction with respect to the suit schedule property. In the pleadings it is stated that the suit schedule property was acquired by their grand father by name Narayanappa from one Dandu

Channappa through a registered sale deed dated 22-5-1940, From the date of sale deed, they are in possession and enjoyment over the suit schedule property.

7. Here in this case, the plaintiffs are claiming title over the suit schedule property on the sale deed dated 22-5-1940 executed by one Dandu Channappa in favour of grand father of the plaintiff by name Narayanappa for valuable consideration of Rs.90/- through a unregistered sale deed.

8. As per admissions made by the proposed defendant, during pendency of the suit they have created partition deed dated 18-11-2022 through which the suit schedule property was allotted in favour of this proposed defendant. Further, by virtue of the same, katha was also mutated in his name. Therefore, the presence of proposed defendant is proper and necessary, otherwise the very purpose of filing the suit will be defeated and it may create multiplicity of proceedings between the parties. Furthermore, the proposed defendant has not specifically denied the statement made by the plaintiffs. Therefore, on the above reasons, point No.1 is answered in **“Affirmative”**.

9. **Point No.2** :- In view of the aforesaid findings on point No.1, I proceed to pass the following:

ORDER

I.A.No.1/2023 filed by the plaintiffs under Order 1 Rule 10 (2) of CPC is hereby allowed.

No order as to costs.

The plaintiff is hereby permitted to implead the proposed defendant as defendant No.6 by amending the plaint.

For amendment of plaint and to furnish amended plaint, Call on:

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced by me in the open court on this the 19th day of March 2025.)

(Arun Kumar.G)
Senior Civil Judge & JMFC,
Hosakote.

