

KABR610003192023



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE AND
J.M.F.C AT NELAMANGALA**

Dated this 29th day of November, 2024

Present: Sri.Deepu M.T. B.A.L, LL.B.
Prl. Civil Judge & J.M.F.C.,
Nelamangala.

O.S.No.9/2008

- Plaintiff/s:**
1. Smt. Lakshmidevi
D/o late Srinivasachar,
Residing at: 12 Cross Weavers Colony,
Kattigere Layout,
Bannerughatta Road,
Bengaluru.
 2. Sri. Vivekananda @ Vivek.,
S/o late Srinivasachar,
Aged 40 Years
Residing at: Gangammagudi Beedi,
Nelamangala Taluk,
Bengaluru Rural District.
 3. Sri. Krishnamurthy,
S/o late Srinivasachar,
Aged about 32 Years,
Residing at: Koramangala,

Katipalya Main Road,
6th Block, Bangalore.

4. Sri. Puttaraju (dead)
- (a) Smt. Mangalamma..
W/o. late Puttaraju,
Aged about 49 years.
- (b) Smt. Chandrakala,
D/o. late Puttaraju,
Aged about 35 years.
- (c) Sri. Ramesha Achar,
S/o . late Puttaraju,
Aged about 33 years.
- (d) Sri. Avinasha,
S/o. late Puttaraju,
Aged about 29 years.

Lr's of Plaintiff No.4 (a) to (d) are R/at :
Lohit Nagara., Kasaba Hobli,
Nelamangala Taluk.

(Rep by Sri. N.K.S., Advocate)

V/s

Defendant/s:

1. Smt. Ashwathamma.,
W/o Late Gangadhachar,
Aged about 65 Years,
2. Sri Manjunath.,
S/o Late Gangadharachar.,

Aged about 27 years,

3. Sri. Nagaveni,
D/o Late Gangadharachar,
Aged about 23 years,

4. Sri. Nagaraj.,
S/o Late Gangadharachar.,
Aged about 21 years

Defendants 1 4 are residing at:
Kamakshipalya, Behind Checkpost,
New Extension House No.62,
Bengaluru-560079

5. Sri Rangadhamaiah.,
S/o late Srinivasachar.,
Aged about 55 Years,
Residing at: D.No 55, HVR
Layout, 6th Main Bangalore.

6. Sri. Shanthilal.,
S/o Saptharaj.,
Aged about 39 Years.,
R/at: Krishnappa Compound
Umegowda Building House No:
111/C Lalbagh Road Bengaluru.

7. Sri Kantha.,
S/o Late Srinivasachar.,

R/at: Haragadde, Anekal Taluk,
Bengaluru Rural District.

8. Sri Venkatesh @
Venkateshachar.,
S/o Late Srinivasachar.,
Aged about 41 Years,
R/at: Choodanahalli,
Anekal Taluk,
Bengaluru Rural District.
9. Sri. Puttaraju,
S/o. Late Srinivasachar,
Aged about --- years,
R/at: Baradi Village,
Kasaba Hobli,
Nelamangala Taluk.

(Rep by Sri. K.M.D., Advocate for proposed defendants)

ORDER ON I.A.NO.14

The plaintiffs have filed this application under order 1 rule 10(2) of Civil Procedure code praying to implead the proposed defendant No.10 to 14 in this suit. The details of the proposed defendant No.10 to 15 is as here under:

Add proposed defendant No.10 to15

10. Sri. J. Hanumantharaju,
S/o. Jawaraiah, Aged 60 years,
R/at Kurubarabeedi,
Thyamagondlu Hobli,
Thyamagondlu Town,
Nelamangala Taluk.
11. Sri. Prakash.D.
S/o late Doddaiiah, Aged 67 years,
R/at Maracharabeedi,
Thyamagondlu Hobli,
Thyamagondlu Town.
Nelamangala Taluk.
12. Sri. Jayaramu.
S/o late Doddanarasimaiah,
Aged 67 years,
R/at Marachara Beedi,
Thyamagondlu Hobli,
Thyamagondlu Town.
Nelamangala Taluk.
13. Sri. Agamirza,
S/o. late Abid Hussain,
Aged 58 years,
R/at Gangammanagudibeedi,
Thyamagondlu Hobli,
Thyamagondlu Town,
Nelamangala Taluk.

- 14 Sri. Gangappa,
S/o. late Gangabyrappa,
Aged 73 years,
R/at Gangammanagudibeedi,
Thyamagondlu Hobli,
Thyamagondlu Town,
Nelamangala Taluk.
- 15 Sri. Ajaz Pasha,
S/o. Late Allabakash @ Basha Sab,
Aged 49 years.
R/at Sendi Street,
Thyamagondlu Hobli,
Thyamagondlu Town.
Nelamangala Taluk.

2. In the annexed affidavit to the application, the plaintiff No.3 has sworn that the plaintiffs have filed this suit against the defendants for the relief of partition and separate possession in respect of schedule property. During pendency of this suit the defendant No.6 has alienated portion of schedule property measuring 12 gunta out of 20 gunta in favor of proposed defendant No.10 to 15 through registered sale deed dated 09.01.2023. The said fact recently came to know the plaintiffs and said alienation has been made by the defendant No.6 behind the back of the plaintiffs. Since the schedule property is joint family property and proposed defendants No.10 to 15

are the purchaser of portion of the schedule property, the proposed defendants No.10 to 15 are necessary parties to this suit. If the application is not allowed the plaintiff will be put to irreparable loss and injury. Hence on all these grounds prayed to allow the application.

3. After filing of this application this court has issued notice to the proposed defendant No.10 to 15. The notice to the proposed defendant No.14 returned as dead and plaintiffs have not taken any steps against the proposed defendant No.14. Notice to proposed defendant No.15 was duly served and he remained absent and hence his abjection taken has not filed. After service of notice proposed defendant No.10 to 13 have appeared through their counsel and filed objection to this application. In the objection the proposed defendant No.10 to 13 have denied the application and entire affidavit averments as false and frivolous. It is further submitted that the proposed defendants No.10 to 13 are not necessary parties as prayed in this application. The transaction of impleading defendants in their vendors was held on 09.01.1993 as their vendor Shanthilal acquired it from Gangadharachar on 19.11.2007 and it is prior to the suit for proceedings. Therefore it appears that an imaginary grounds plaintiffs wanted to drag these proposed defendants for their

unwanted procedures. The application filed by the plaintiffs just to drag the proceedings only. Hence on all these grounds prayed to dismiss the application.

4. Heard the arguments of the learned counsel for the plaintiffs and proposed defendant No.10 to13. Perused the materials available on record.

5. The following points would arise for consideration of this court:

1. Whether the plaintiff has made out grounds to allow the application?
2. What order ?

6. Findings of this court on the above point No.1 in the partly affirmative and point No.2 as per final order for the following;

REASONS

7. **Point No 1:-** On perusal of records it appears that the plaintiffs have filed this suit for the relief of partition and separate possession against the defendants in respect of schedule property. Through the instant application the plaintiffs have sought for implead the proposed defendant No.10 to15 in this suit as they are the subsequent purchaser of the portion of schedule property

through sale deed dated 09.01.2023. The proposed defendant No.10 to 13 have denied the application as they are necessary parties.

8. I have perused the pleadings, application, annexed affidavit, objection, documents available on record and arguments of both side. On perusal of sale deed dated 09.01.2023 depicts that during pendency of this suit the defendant No.6 has executed registered sale deed in respect of property bearing Sy.No.215 measuring 12 gunta out of 20 gunta which is schedule property herein in favor of proposed defendant No.10 to 15. After filing of this application as per the shara of process server notice to the proposed defendant No.14 returned as dead and inspite of that the plaintiffs have not taken steps against the proposed defendant No.14. Therefore at this stage it appears that proposed defendant No.14 dead. Since this suit is for partition and separate possession against the defendants and defendant No.6 has alienated portion of schedule property through sale deed dated 09.01.2023 in favor proposed defendant No.10 to 15. The proposed defendants No.10 to 15 are necessary parties to this suit. Since the proposed defendant No.14 reported as dead, the application filed by the plaintiffs deserved to be allowed in

part. With these observation, this court has answered the Point No.1 in the Partly Affirmative.

9. **Point No.2:** In view of observations made supra, this court proceed to pass the following;

ORDER

I.A.No.14 filed by the plaintiff U/O.1 rule 10(2) of Civil Procedure Code is hereby partly allowed.

The proposed defendant No.10 to 13 and 15 are impleaded as defendant No.10 to 14 respectively.

The plaintiffs shall carry out consequential amendment and furnish amended plaint accordingly.

No order as to cost.

(Dictated to Stenographer, transcription and transcribed by her, corrected, signed and then pronounced by me in the open court **on** this the 29th day of November, 2024)

(Deepu.M.T)
Prl. Civil Judge & JMFC.,
Nelamangala.