

1	<i>Provision under which the application is filed</i>	<i>U/O. Under order 1 rule 10(2) of CPC.</i>
2	<i>Relief sought for</i>	<i>To delete the party</i>
3	<i>The date on which the application is filed</i>	<i>31.01.2025</i>
4	<i>Number of the application</i>	<i>IA No.XI</i>
5	<i>The date on which the objections are filed by different opponents</i>	<i>No objections</i>
6	<i>The date on which the orders were passed on the said application</i>	<i>25.06.2025</i>

**ORDER ON APPLICATION UNDER ORDER I RULE
10(2) OF CPC FILED BY THE PETITIONER
(IA No.XI)**

1. The petitioner No. 2 has filed the affidavit. In the affidavit it is stated that, the petitioners have filed the petition against the respondents. The suit was decreed and preliminary decree was ordered for 1/3rd share to the petitioners in the suit schedule properties. The respondents have not co-operated for

effecting division of partition, therefore the present FDP is filed. During the pendency of the suit, the respondents have sold the suit item No. 6 property in favour of proposed respondent No. 9 under the registered sale deed dated 04.10.2001 and item No. 10 in favour of proposed respondent No.10 on 27.04.2005 and the said fact came to the knowledge of the petitioners recently and as such the proposed respondent No. 9 and 10 were impleaded but at the time of impleading the name and address of the respondent No. 10 be was wrongly mentioned, and as such their counsel has impleaded them but later the petitioners came to know that the address of respondent No. 10 be wrongly mentioned as the wrong address was traced and the same was informed to the advocate and as such the said fact came to the knowledge of the advocate recently which is not intentional one. Therefore, it is just and necessary to delete the respondent No. 10(b) as he is not necessary party . Hence the application is filed. If the application is allowed no loss will be caused to other side. If the application is not allowed then the applicant will be put to irreparable loss and legal injury. On these allegations sought for allowing the application.

2. *On the other hand the respondents have stated no objections.*
3. *Heard on application for both side .*
4. *The points that arise for my consideration is as follows:*

**Point No.1: Whether the application i.e.,
IA No.XI filed by the petitioner
U/O.1 R 10(2) of CPC R/w 151
of CPC deserves to be allowed?**

Point No.2: What order?

5. *My findings to the above points as under*
- Point No.1: In the Affirmative**
- Point No.2: As per final order for the following**

REASONS

6. **Point No.1:** *The petitioner has filed the application seeking to delete the respondent No. 10(b) from the case by stating that the wrong address of respondent No.10(b) as collected and by oversight wrong person is impleaded and as such the presence of the respondent No. 10(b) is not necessary and required and as such sought for allowing the application. On the other hand the respondents have stated no objection.*

7. *As the application is filed by the petitioner it is necessary to know as to whether the relief sought*

for in the application is maintainable or not. The petitioner has stated that respondent No. 10(b) is not necessary to this case as the petitioner has collected the wrong address of the respondent No. 10(b) and as such his presence is not necessary and sought for allowing the application. As the petitioners have stated that the presence of respondent No. 10(b) is not necessary and as the respondents have also stated no objection to the application under these circumstances the presence of respondent No. 10(b) is not require. When the presence of respondent No. 10(b) is not required in this case, as the petitioners have clearly stated that by oversight wrong address was collected under these circumstances rejecting the relief is not proper and correct. Thus, the reasons stated in the affidavit is taken into consideration and as the respondents have stated no objection under these circumstances no hurdle to consider the relief sought for in the application and as such the petitioners have made out prima facie case and cogent reasons to consider the relief sought for in the application. Thus, at this stage in view of nature of the petition and in view of allegation made in the affidavit, the petitioners have made out prima facie case to consider the relief sought for in the application and as such in view of

*above discussion, I answer this point No.1 in the **Affirmative.***

8. **Point No.2:** *In view above discussion I proceed to pass the following:-*

ORDER

The application i.e., IA No.XI under Order I Rule 10(2) of C.P.C filed by applicant is hereby allowed.

No order as to cost.

The respondent No. 10(b) is deleted from the case .

The Petitioners to carry out amendment and to furnish amended petition.

Call on by 03.07-2025.

***I Addl. Sr. Civil Judge & JMFC.,
Chitradurga.***